SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

No. 376

MILTON HAROLD WILSON, PETITIONER,

vs.

STATE OF LOUISIANA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF LOUISIANA

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IN THE SUPREME COURT OF LOUISIANA

No. 38,558

STATE OF LOUISIANA

v.

MILTON HAROLD WILSON

Appealed from the Twenty-fourth Judicial District Court, Parish of St. Charles, Leo W. McCure, Judge

OPINION—November 8, 1948

O'NIELL, C. J.

The appellant stands convicted of murder and sentenced to be electrocuted.

The record contains eleven bills of exception, but we find it not necessary to consider any but the two bills which were reserved to the judge's admission in evidence, over the defendant's objection, of two typewritten documents signed by the defendant and purporting to be free and voluntary confessions. The first of the two alleged confessions was signed in the presence of six officers, namely, the sheriff of the Parish of St. Charles, in which parish the crime was committed, and three of his deputies, and two sergeants of the state highway police. That confession was made at the headquarters of the state highway police, in Jefferson Parish, near New Orleans. It was made during the night of the 15th and early-morning of the 16th of *of* July, 1946. The questioning of the defendant by the [fol. 36] police officers commenced at about 11:30 o'clock p.m., on July 15, on their arrival at the police headquarters with the defendant in their custody; and the questioning continued until 5:00 o'clock the next morning, at which time the defendant signed the document which was typewritten and transposed into narrative form by one of the deputies who took part in the questioning of the defendant. The crime concerning which the defendant was questioned had been committed a month before, that is, on the night of June 15 or early morning of June 16, 1946. There was

no one present except the defendant and the six officers having him in custody at the time of the making or signing of the alleged confession. After the defendant had signed the confession, that is, about 6:00 o'clock a.m., on July 16, 1946, he was taken by the officers to the parish prison in New Orleans and locked in a cell.

The second one of the alleged confessions was signed by the defendant in the parish prison in New Orleans on July 18, 1946, in the presence of a lieutenant and a sergeant of the state highway police and a deputy sheriff of the Parish of St. Charles. The sergeant of the state highway police and the deputy sheriff had witnessed also the signing of the first confession. In fact, the deputy sheriff had typed the first confession, as it was alleged to have been made by the defendant. Captain Meredith, of the New Orleans police force, being the one who brought the defendant from his cell into the room where the second con- [fol. 37] fession was obtained, was in and out of the room from time to time during the making of the confession. He, in his testimony, according to the judge's per curiam, corroborated the statement of the deputy sheriff and the two state troopers that the confession was made freely and voluntarily. The second confession also was typewritten by one of the three officers who were present and signed the confession as witnesses. It is conceded, as we understand, that no one but the deputy sheriff and the two state troopers was present at the making or signing of the second confession,—except Captain Meredith, who was in and out of the room from time.

The defendant's objection to the introduction in evidence of the alleged confessions was that they were not made or signed freely and voluntarily, but that the defendant's signature was obtained by the officers by putting him in fear and by threats and acts of violence on their part. The testimony on that subject was heard by the judge in the absence of the jury before the confessions were allowed to be introduced in evidence. But the evidence concerning the manner in which the confessions were obtained was not reduced to writing.

Inasmuch as we have not the benefit of the testimony which was heard by the trial judge before he allowed the confessions to be introduced in evidence, we must base our

decision, as to whether the confessions were or were not made freely and voluntarily, upon the per curiam of the judge, together with such faces on the subject as are admitted in the state's brief.

The crime was committed sometime during the night of the 15th or early morning of the 16th of June, 1946. The defendant, a colored man in his early thirties, lived in the [fol. 38] neighborhood in which the crime was committed, and had lived there for some years, perhaps from the time of his birth. The crime was a gruesome one. It consisted of the clubbing to death of a man and his wife while they were asleep in their bed, and the ravishing of the woman. They were in their home, in a small settlement called New Sarpy, in St. Charles Parish. They were of the white race. The commission of the crime was discovered early on the morning of June 16. There was no eyewitness to the crime. The defendant, Wilson, was indicted separately for the two crimes, of murder and for the crime of rape, but is being prosecuted only for the murder of the woman. The two other indictments are yet pending.

Wilson had had a fight with a colored woman in that neighborhood early in the night or evening of June 15. Several days after the discovery of the crime, the woman with whom Wilson had had the fight made an affidavit against him for assault in connection with the fight. The affidavit had no reference to the crimes of murder and rape. The affidavit was sent to the office of the sheriff of St. Charles Parish, in Hahnville, and *and* afterwards turned over to a deputy sheriff, E. M. Guidry, for the arrest of Wilson, who was then working in a sawmill at Hammond, Louisiana, about fifty miles from the place where the crime had been committed. Guidry went to Hammond to arrest Wilson, on July 15, 1946, that is, a month after the crime had been committed. He arrived in Hammond about 9:00 o'clock that night, and, accompanied by two police officers of the City of Hammond, arrested Wilson and brought him [fol. 39] to the city police station. Guidry then went to the telephone in the police station and called the sheriff of St. Charles Parish, at Hahnville, the Parish seat, about fifty miles away. While Guidry was conversing with the sheriff on the long-distance telephone, one of the two police officers, who were questioning Wilson, struck him for fail-

ing or refusing to answer their questions. Guidry then came from the telephone and prevented the officer from striking Wilson again.

Immediately after Guidry's long-distance telephone conversation with the Sheriff, he, Guidry, with two companions, left with Wilson in their custody and conveyed him to the headquarters of the state highway police, in obedience to the instructions which the sheriff had given to Guidry on the long-distance telephone. The party arrived at the headquarters of the state highway police, in the Parish of Jefferson, near New Orleans, late on the night of June 15, perhaps some time near or after 11:00 o'clock. The sheriff and his deputies and the police officers, whom we have mentioned, began questioning the defendant with the view of obtaining a confession from him if he was willing to make one, soon after their arrival with him at the state police headquarters; and, as we have said, the questioning continued until about 5:00 o'clock the next morning, when the defendant signed the confession. About an hour later he was taken to the parish prison in New Orleans.

[fol. 40] No explanation appears in the record as to why Guidry was instructed to take Wilson to the state highway police headquarters instead of directly to the parish prison in New Orleans. The state highway police headquarters was not on the direct or ordinary route from Hammond to New Orleans, but was a short distance, perhaps not more than a mile, off the route. Wilson, of course, had no opportunity for sleep, being continuously in the presence and under the observation of an arresting officer, from the time of his arrest in Hammond, about 9:00 o'clock on the night of June 15, until he signed the confession, at 5:00 o'clock the next morning. Thereafter he was confined in the parish prison in New Orleans from 6:00 o'clock that morning until some time after he had signed the second confession, two days later.

The present Constitution of Louisiana goes further in protecting an accused person against being compelled to give evidence against himself than any previous constitution went. In Section 11 of the Bill of Rights there is added to the provisions in the former constitutions, that no person shall be compelled to give evidence against him-

self in a criminal case or in any proceeding that may subject him to criminal prosecution, this provision:

> "No person under arrest shall be subjected to any treatment designed by effect on body or mind to compel confession of crime; nor shall any confession be used against any person accused of crime unless freely and voluntarily made."

[fol. 41] In the Code of Criminal Procedure, in Article 451, it is declared:

> "Before what purposes (purports) to be a confession can be introduced in evidence, it must be affirmatively shown that it was free and voluntary, and not made under the influence of fear, duress, intimidation, menaces, threats, inducements or promises."

This court has construed that article of the Code of Criminal Procedure to mean that before what purports to be a confession can be introduced in evidence it must *he* shown, not only affirmatively but *by proof beyond a reasonable doubt,* that it was free and voluntary, and not made under the influence of fear, duress, intimidation, menaces, threats, inducements or promises. State v. Henry, 196 La. 217, 198 So. 910; State v. Graffam, 202 La. 869, 13 So. 2d 249; State v. Ellis, 207 La. 812, 22 So. 2d 181; State v. Ross, —— La. ——, 31 So. 2d 842, decided in May and rehearing refused in June 1947. In State v. Henry (pp. 239-243), after quoting Article 451 of the Code of Criminal Procedure, the court proceeded thus:

> "If there were any reasonable doubt that the confessions of the accused were free and voluntary, they should have been excluded. 20 Amer. Juris., Evidence, Par. 538, and State v. Garvey et al., 25 La. Ann. 191. The law cannot measure the force or effect of influence upon the mind of the accused, and therefore excludes the declaration if any degree of influence has been exerted. State v. Young, 52 La. Ann. 478, 27 So. 50; Bram v. United States, 168 U. S. 532, 549, 18 S. Ct. 183, 42 La. Ed. 568. * * *"

[fol. 42] In the case of State v. Murphy, 154 La. 190, 203, 97 So. 397, 402, the court said:

> "The law presumes, once a showing has been made that an accused confessed through fear or the promise of relief, that such condition of mind continues at any subsequent confession, unless it be proven that by the lapse of time, and by the circumstances under which it was made, the act of the prisoner was entirely free and voluntary. State v. Wood, 122 La. 1014, 48 S. 438, 20 L. R. A. (NS) 392".

In State v. Graffam, (pp. 887-890) the court quoted from Section 11 of the Bill of Rights of the Constitution of 1921, and quoted Articles 451 and 452 of the Code of Criminal Procedure, and proceeded thus:

> "The question presented in this case is whether defendant's confession was freely and voluntarily made. In order to determine the question, the facts and circumstances surrounding and entering into the making of the confession should be considered. The question is not to be determined by the mere conclusions or statements of the police or other officers that the confession was made freely and voluntarily. State v. Newton, 173 La. 382, 137 So. 69." * * *
>
> "Apart from the conflicting interpretations placed upon the hospital record by Dr. Cole and Dr. May, if their testimony can be considered, reason and common sence indicates that the state of mind of one situated as the defendant was when the confession was made is not such as to induce the belief that his statements were free and voluntary. In any event, under the circumstances disclosed by the record, there is a rea- [fol. 43] sonable doubt as to whether the defendant's confession was freely and voluntarily made. This being so, the doubt must be resolved in favor of the defendant, thereby forcing the further conclusion that the trial judge erred in admitting his confession over the objection of defendant's counsel."

In State v. Ellis, and again in State v. Ross in June 1947, the court repeated the doctrine of St. v. Henry and State v. Graffam, thus:

> "Furthermore, if there is any reasonable doubt as to whether the confession was free and voluntary, it must be excluded. 20 American Jurisprudence, verbo. Evidence, par. 537, p. 456; State v. Garvey, 25 La. Ann. 191; State v. Henry, supra.
>
> "The force or effect of influence upon the mind of the accused cannot be measured, and where any degree of influence has been exerted, the confession must be excluded. State v. Young, 52 La. Ann. 478, 27 So. 50; State v. Doiron, 150 La. 550, 90 So. 920; State v. Lanthier, 201 La. 844, 10 So. 2d 638."

State v. Henry, State v. Graffam and State v. Ellis were all unanimous decisions.

According to the law of this State, therefore, which we have quoted, and which appears to be well settled, if there is a reasonable doubt that the confessions which were offered in evidence in this case were free and voluntary confessions, the verdict and sentence must be set aside and a new trial granted. There are certain circumstances which [fol. 44] impress us with a reasonable doubt that the alleged confessions were free and voluntary. In the first place the judge's per curiam shows affirmatively that some violence was used by one of the arresting officers in the police station in Hammond, soon after the defendant was arrested and while he was being questioned by the officers. It is true that, Deputy Sheriff Guidry, one of the arresting officers, testified that the questioning of the defendant by the Hammond police officers had no relation to the crimes to which he subsequently confessed. But we must bear in mind that the deputy sheriff was engaged in the long-distance telephone conversation at the time when the two other officers were questioning Wilson and when one of them struck him. Another circumstance which leaves some doubt as to whether the defendant's first confession was a free and voluntary confession is the fact that no reason has been suggested as to why the deputy sheriff who confeyed the defendant from Hammond to the parish prison in New Orleans was directed to go to the headquarters of the state

highway police, instead of going directly to the parish prison in New Orleans, where the officers did take Wilson an hour after he signed the confession. We are compelled to consider also that, as far as the record now shows, from the time when the defendant was arrested in Hammond—9:00 o'clock on the night of June 15—until he signed the confession at about 5:00 o'clock the next morning—he had no opportunity for sleep.

[fol. 45] Whether the second confession was or was not a free and voluntary confession is a matter of no importance in this appeal since we have found that there is a reasonable doubt that the first confession was made freely and voluntarily. State v. Ross, supra.

We do not find that the confessions which were introduced in evidence in this case were not free and voluntary confessions but find merely that the record leaves a reasonable doubt that they were free and voluntary. For that reason we are constrained by the law which we have cited to grant a new trial. On the new trial the state will have the right of course to offer further evidence to prove—before re-offering the confessions in evidence—that they were made freely and voluntarily; and the defendant will have the right to offer evidence to the contrary. We trust that all of the evidence on this subject will be reduced to writing and made part of the record in the event of another appeal.

The verdict and sentence appealed from are annulled and the case is ordered remanded to the district court for a new trial.

[fol. 46] IN SUPREME COURT OF LOUISIANA

No. 38,558

STATE OF LOUISIANA

VS.

MILTON HAROLD WILSON

DISSENTING OPINION

McCALEB, J., Dissenting.

I readily concur with all of the authorities cited and quoted from at length in the majority opinion to the effect that confessions must be shown to be free and voluntary and are not admissible of reasonable doubt exists to the contrary. However, I find nothing in the facts contained in the per curiam of the trial judge relative to the admissibility of the confessions (upon which we must base our conclusion) which leaves reasonable doubt to my mind that the confessions were wholly free and voluntary.

Indeed, the majority, after stating the incidents surrounding the movements of the accused and the law enforcement officers prior to the arrest and the conditions under which the confessions were obtained, merely conclude that "from the record as made up, and without the benefit of the testimony on the question whether the confessions were free and voluntary, * * * there is not sufficient proof that the first confession was free and voluntary." Not one circumstance is adverted to in the opinion upon which the resolution of doubt based on the insufficiency of proof is predicated. Since we are controlled by the facts contained in the per curiam of the trial judge, the deduction that the proof in the record is inadequate to show that the first confession was free and voluntary appears not to be an answer to the question but, rather, a suggestion that either the [fol. 47] trial judge has failed to set down all of the evidence upon which his ruling was based or that the State has more evidence to produce at the new trial.

The statement of facts surrounding the giving of the first confession contained in the majority opinion is fairly accurate with one exception—that is, the opinion fails to

mention the very important finding of the district judge that, when the accused was struck by the city police officer in Hammond, he was not being questioned about the Petrolia murders. The trial judge states the striking incident in Hammond as follows:

> "He, Wilson, and the Hammond Officers went into the Police Station, where Guidry proceeded to use the telephone to inform Sheriff Leon Vial of St. Charles Parish that he had Wilson in his custody and was bringing him in; and while he, Guidry, was using the telephone one of the Hammond officers struck Wilson once and he, Guidry, protested, and stopped him from striking him again. Guidry was on the phone at the time; and testified that the Hammond officer struck Wilson because he would not answer some questions.
>
> "Wilson was placed on the stand, and corroborated Guidry to the effect that the Hammond Police Officer struck him, but stated that he was beaten up with billies and struck on the head and stomach (which was subsequently denied by Guidry on rebuttal) because he, Wilson, could not answer their questions about where, what place he stayed at, and where he hung around whilst in Hammond, and that because he couldn't tell them, he was struck.
>
> "The evidence showed that Wilson was not questioned about the murder of the Petrolias at Hammond, and the questions asked him by the Hammond Police were absolutely foreign to the Petrolia murder, and the act of violence on the part of the Hammond Policemen had no connection or anything to do with the confession that was later made by Wilson. As a matter [fol. 48] of fact, whilst Wilson was at Hammond he was not asked a single question about the Petrolia murders."

Since, as found by the trial judge, the blow received by the accused at Hammond had no connection with questions asked him concerning the Petrolia murders, this blow cannot be considered as a basis for a holding that it had any causal connection with the confession subsequently given at State Police Headquarters. The trial judge ruled accordingly, citing State v. Rinzi, 151 La. 163, 91 So. 664,

and State vs. Lamotte, 168 La. 837, 123 So. 591 to support his conclusion.

Eliminating the circumstance of the blow received by the accused in Hammond, the evidence is overwhelming to the effect that the confession signed by him at 5:00 a. m. on July 16th 1946 was free and voluntary unless we are to accept Wilson's testimony that he was beaten with "billies" by the state troopers and a deputy sheriff, in preference to the denials of those officers. The trial judge was convinced that the officers were telling the truth and I cannot find any circumstance to indicate why their testimony should not be believed. True, *we* pointed out by the majority, Wilson was arrested at 9:00 p. m. on July 15th and did not sign the confession until eight hours later, at 5:00 a. m., it thus being evident, that he was questioned a considerable length of time before the confession was given. But this is not a circumstance which should cause doubt that the confession was voluntary and the opinion of the Supreme Court of the United States in Haley vs. Ohio, [fols. 49-91] 92 L. Ed. 239, Adv. Op. No. 7, is not authority for such a conclusion.

The facts in the Haley case present the questioning by police in relays of a fifteen year old negro boy for several hours and thereafter holding him incommunicado, despite the plea of his mother and counsel, for a period of three or four days. There is nothing in this case to show that the accused, (a grown man) ever requested counsel or that he was denied the right of communication with others.

I respectfully dissent.

[fol. 92] In 24th Judicial District Court, Parish of St. Charles, State of Louisiana

No. 2,501 Criminal Docket

State of Louisiana

vs.

Milton Harold Wilson

Bill of Exception No. 8—Filed September 6, 1949

Be it remembered, that on the trial of this cause the District Attorney called Lieutenant Moore as a witness for the State for the purpose of laying the foundation for the

introduction in evidence of the purported confession of July 18, 1946; but before Lt. Moore had answered the last question propounded to him on direct examination and before counsel for the accused had had the opportunity to cross-examine the State witness, the court in furtherance of the objection of counsel for the accused ruled that the proper foundation had been laid, in the presence of the jury, thus denying to the accused his Constitutional right of cross examining the State witness and only witness that had been offered for laying the foundation before ruling that the foundation had been laid; and thus prejudicing the minds of the jury against the accused.

Mr. Langridge: (Trans. 474.)

"Q. On that date, July 18, 1946, did you have any conversation with the accused?

"A. Yes, sir; I did.

[fol. 93] "Q. Was that conversation had in the presence of Dy. Sheriff Prejean, Sgt. Mack and Capt. Meredith?

"A. Yes, sir; it was.

"Q. At that time, did the accused make any statement to you in connection with the murder of Mrs. Joseph Petrolia on June 15, 1946?"

By Mr. Laurent:

"Objected to on the same grounds—that the District Attorney is attempting to prove a confession without the proper foundation having been laid."

By the Court:

"That objection is overruled at this time for the reason that I believe they are in the course of laying the foundation now."

Mr. Laurent: (Trans. 475.)

"Counsel for the accused reserves a Bill of Exception to the ruling of the court, and makes the testimony of this witness before the jury, and the ruling of the court, part of the Bill of Exception."

By the Court:

"My understanding of the laying of the foundation for that type of evidence is that it cannot be done by asking just that one question.

"If the foundation is not properly laid, I certainly will exclude it, but up to this point I am of the opinion that the asking of that question leads me to believe that it is part and parcel of an attempt to lay the proper foundation."

Mr. Laurent:

"I say that the proper time to question him about it is at the time of the arrest."

By the Court:

"Well, you let him handle his case the way he wants. I can't control the way he wants to present his case. If the proper foundation is not laid, I will exclude it."

[fols. 94-95] Mr. Laurent:

(To the Court Reporter): Will you read that question back?

"Q. At that time, did the accused make any statement to you in connection with the murder of Mrs. Joseph Petrolia on June 15, 1946?

"A. Yes, he did.

"Q. Was that statement freely and voluntarily made on the part of the defendant, Milton Harold Wilson?

"A. Yes; it was.

"Q. Was there any violence used, or was the statement made under the influence of fear, duress, threats, menaces, intimidation, inducements or promises of any kind, in order to get him to make that statement?

"A. No, sir.

"Q. Was any act of any kind done in any manner to compel him to make any statement?

"A. No, sir.

"Q. Will you tell us what happened, and how you came to get the statement at that time?

By the Court: (Trans. 476)

"The court at this time will have to state that in the opinion of the Court, in furtherance of the over-

ruling of the objection, that it is the Court's opinion, from the answers elicited from this witness to questions asked by the District Attorney, that the proper foundation has been laid."

Whereupon, the Court having ruled in furtherance of the objection of counsel for the accused that the proper foundation had been laid and counsel for the accused having reserved a Bill of Exception to the ruling of the Court on his objection and made the testimony of the witness and the ruling of the Court a part of the bill; and having tendered same to the District Attorney, was given to the Judge for his reasons and signature.

(Signed) Lubin F. Laurent, Attorney for Defendant.

[fol. 96] In 24th Judicial District Court, Parish of St. Charles, State of Louisiana

[Title omitted]

Bill of Exceptions No. 9—Filed September 6, 1949

Be it remembered, that on the trial of this cause, the Court over the objection of counsel for the Accused, ruled that the purported confession of July 18, 1946 was admissible in evidence; which was a monstrous error on the part of the Court, as the evidence shows that violence was used on the accused at the Hammond Police Station where the accused was questioned concerning the crime in St. Charles Parish; that violence, duress, cursing, threats and putting in fear were used against the accused at the Huey P. Long Bridge Police Station; that duress, putting in fear and threats were used against the accused in the Execution Room of the New Orleans Parish Prison less than 48 hours after the torture at the Huey P. Long Bridge Police Station, where the accused was sat on the Trap Door of the Execution Chamber at the New Orleans Parish Prison, by the same officers who were at the Huey P. Long Bridge Police Station. In his argument against the admission of

the said purported confession in evidence, counsel for the [fol. 97] accused brought out the following facts:

1. It was testified by Dy. Sheriff Guidry, a State witness, that the accused was struck at the Hammond Police Station and that he, Guidry, had to stop the violence there; and Mr. Victor Anderson, City Marshall at Hammond, testified (Trans. 619) that the accused was questioned concerning a crime in St. Charles Parish, there at the Hammond Police Station.

2. Mrs. Lucy Vander Linden, Postmistress at New Sarpy, a highly intelligent lady who had aided the officers in obtaining the address of the accused and in many other ways assisted the officers in this case, testified (Trans. 662) that the Deputy Sheriff Guidry stopped at her house at 6:45 A. M. on the morning of July 16, 1946, coming directly from the Huey P. Long Bridge Police Station, and told her that "The boys worked on him and made him confess", and she asked him:

> "Q. How much beating did you have to do to make Pete Wilson confess?
>
> "A. I did not strike him, but the boys worked on him",

and counsel for the accused asked her, "Did he say they had made him confess?" and she answered, "Absolutely".

3. Captain Meredith, Warden of the New Orleans Parish Prison, a State witness, testified (Trans. 498) that Wilson, the accused, had no trousers on him, "In fact, I changed him from the first floor to the fifth floor, and got a blanket [fol. 98] to put around him". He testified, (Trans. 498), that he was the one who took Lieutenant Moore, Deputy Sheriff Prejean and Sgt. Mack to the Execution Chamber of the Prison for the purpose of obtaining the second purported confession; and he was asked by counsel for the accused (Trans. 504):

> "Q. That was the execution room of the Parish Prison; was it not?
>
> "A. Yes, sir.
>
> "Q. That room has a Trap Door in it; is that right?
>
> "A. Yes, sir.

"Q. It also has a hook and rope in the ceiling; hasn't it?

"A. They have an eye-bolt in the ceiling. No rope.

"Q. The table was close to the Trap Door; was it not?

"A. It could have been. I know there was a rail that divides the room, and he was sitting inside the railing."

Sergeant Mack testified (Trans. 558), that Wilson was sitting in front of the table across from Lt. Moore, and therefore he must have been sitting exactly on the trap door; and the accused testified (Trans. 779) that he was sitting on top of the trap door.

4. Deputy Sheriff Prejean was asked (Trans. 538):

"Q. Well what would you say. When was the cursing done?

"A. I told you it was general cursing while we were in there."

And Deputy Sheriff Prejean testified (Trans. 527) that there were nine to twelve men at the Huey P. Long Bridge [fol. 99] Police Station, which, for the purpose for which they were assembled, constituted a "mob".

Deputy Sheriff Prejean testified, (Trans. 533) that it was 12:30 A. M. when they arrived at the Bridge with the accused; that he had a wrist watch and that it was a Benrus wrist watch, but that he was not charged with murder because of that fact.

5. Deputy Sheriff Guidry, who had previously testified that Wilson had been offered food and drink, on cross examination, when pinned down, testified (Trans. 654):

"Q. But, didn't I ask you if you offered to give him anything to eat or drink?

"A. No, I don't recall your asking me that.

"Q. Didn't you tell me, 'Well, I didn't have any either'?

"A. That's right. Because I didn't want none."

The fact that the accused was kept all night under torture, without food or drink or being permitted to go to the toilet, is in itself Duress to the Nth degree.

6. The First Trial had to be declared a mistrial by the Court because it was discovered that the accused was urinating blood every twenty minutes; and Dr. Kirn who was called to examine the accused recommended to the Court that the accused be sent to the Charity Hospital immediately (Trans. 743). The Charity Hospital Clinical Report, marked "Defendant #1" shows the diagnosis to be "bladder tumor", which was certainly caused by the heavy beating the accused testified he received on the belly [fol. 100] at the Huey P. Long Bridge Police Station.

7. According to our jurisprudence, citations of which were read to the Court at the time of the argument, the same violence, cursing, threats, duress and putting in fear which were forced on the Accused at the Hammond Police Station and at the Huey P. Long Bridge Police Station, following the Accused to the execution chamber of the New Orleans Parish Prison where the Accused was confronted with the same officers as were at the Huey P. Long Bridge Police Station, less than 48 hours afterwards, where the Accused was sat upon the trap door used by the Executioners to hang condemned criminals; and then and there he was threatened when he refused to sign the purported confession which Lt. Moore had copied and made additions to—as the accused testified (Trans. 781): "They told me they were going to throw that trap door on me and hang me if I didn't sign it."

8. It is evident by reading the two purported confessions that they are absolutely impossible. And an impossible confession is no confession at all. The two purported consessions state that he went in the house through the front door and struck the two people in bed with a stick, and then he heard an automobile coming and he was frightened and ran out the back screen door, breaking the latch, and ran away. As a matter of fact, the evidence shows that the screen door was propped open with an okra stem that had been pulled out of the back garden. How could it be possible for anyone committing such a crime as this, run-[fol. 101] ning away because he heard an automobile coming, go in the garden, come back to the house and prop up the screen door. He wouldn't even do so *if* he was not running away. That is absolutely impossible.

Also, the woman's pillow was soaked with blood, and she was found lying in the middle of the floor in a pool of blood, showing that she was bleeding profusely. The purported second confession states that he dragged her from the bed to the spot where—was found on the floor in the middle of the room. Yet, not one speck of blood could be found between the pillow and the spot where the woman was lying on the floor, either on the sheet or on the floor; and that is absolutely impossible.

Also, according to the first purported confession, he had left the woman in bed when he heard the automobile coming, and ran *w*way; but, the fact of the matter, she was actually on the floor, which was impossible. And so, evidently it was necessary to go to the Parish Prison in New Orleans and force another confession out of the accused. This time they dragged the woman out of the bed to make the deficiency of the fact that she was actually on the floor; but they did not have the foresight to think about the blood that would necessarily have to be on the sheet and on the floor if the woman were dragged from the bed. All of which indicates that the said two purported confessions were made up and fabricated by these officers. They obtained the information for the first part of the confession from the accused as he testified; and they made up the balance, as he testified.

[fols. 102-105] Also, the second so-called confession states that someone offered to sell him a weed cigarette. That is impossible for the reason that weed cigarettes in the Country Parishes is unknown, and the Court could well have taken judicial cognizance of this fact. No one could possibly sell a weed cigarette in a Country Parish.

The proof is in the record indicating that Mrs. Petrolia was killed by her own father; and why should the accused confess to a crime which he knew he had not committed unless he was compeled by force, violence, cursing, threats and duress to do so.

And yet with all of the above proof that the said purported confessions could not possibly have been obtained voluntarily, the Court overruled the objection of the counsel for the accused to the admissibility of the said purported confession in evidence, and actually admitted the said purported confession in evidence.

Whereupon, counsel for the accused then and there excepted to the ruling of the Court, reserved a Bill of Exception and made the evidence on the confession and the ruling of the Court a part of the Bill; which, first having been tendered to the District Attorney, was given to the Judge for his reasons and signature.

(Signed) Lubin F. Laurent, Attorney for Defendant.

[fol. 106] In 24th Judicial District Court, Parish of St. Charles, State of Louisiana

[Title omitted]

Bill of Exception No. 10—Filed September 6, 1949

Be it remembered, That on the trial of this cause, the jury having been withdrawn, the Court ruled that the purported confession of July 18, 1946 was admissible in evidence. The jury was brought back into Court, and the District Attorney now proceeded, in the presence of the jury, to show how the said purported confession was obtained; and after hearing only the State witnesses in the presence of the Jury but not the defense witnesses, the Court ruled, over the objection of counsel for the accused, that the purported confession was admissible and could be read to the Jury, denying to the accused his Constitutional right of placing his witnesses on the stand, in the presence of the jury, to prove how the purported confession was obtained, which right had been accorded to the State.

Mr. Langridge: (Trans. 729.)

"Well, I now re-offer in evidence in connection with the testimony of Lt. Moore, Sgt. Mack and Dy. Sheriff Prejean, the confession dated July 18, 1946, identified by the witnesses, and previously marked for identification "State 'P'" and "State 'Q'" and ask permission at this time to read the confession to the Jury."

[fol. 107] By Mr. Laurent:

"I object to that, if Your Honor please. How can a confession be admitted in evidence until all the testi-

mony has been heard on the confessions? How can counsel ask permission to read the confession to the jury, not knowing whether it will be admitted or not? Such a thing is legally impossible. All the evidence on the confession has not been heard.

"Your Honor is not in a position to admit the confession, and it certainly cannot be read to the jury until Your Honor admits it in evidence, and you cannot admit it in evidence until all the testimony has been heard on it."

By Mr. Langridge:

"You asked last night how many witnesses the State had left to be heard, and I said there were three—Lt. Moore, Sgt. Mack and Dy. Sheriff Prejean; and that would be the State's case on the admission of the confession. I have offered these three witnesses, they have testified, and I have offered the confessions in evidence and I now ask permission to read it to the Jury."

By Mr. Samuel: (Trans. 730.)

"If your Honor please, for the purpose of facilitating things—the State offered the confession in evidence. The Court has not ruled. We have already permission to read it to the Jury.

"Now, if there is some evidence that Mr. Laurent wants to offer, and if the Court thinks it will be fair to hear the evidence, let us hear it."

Mr. Laurent:

"I say that it is not possible to read a confession to the Jury until such time as it has been admitted in evidence; and that it is not possible for Your Honor to admit it."

By the Court:

"I take it that the State has tendered the confession in evidence. Is that right?

Mr. Langridge:

"Yes; that's right."

[fol. 108] By the Court: (Trans. 731.)

"Is the matter submitted on that question?"

Mr. Laurent:

"Yes."

By the Court:

"The Court is going to rule that the confession is admissible in evidence and can be read to the jury.

"With regard to your statement about evidence, the Court says that any evidence on the admissibility of that confession is covered in the attack made outside the presence of the jury."

Mr. Laurent:

"I want to object to the introduction of the confession in evidence, upon the ground that the defense has not been given the opportunity to present its witnesses on the admissibility of the confession in evidence; the defense has not been given the opportunity to rebut the testimony of the State's witnesses; and counsel for the defense strenuously objects to the confession being read to the jury before the defense has had a chance to place its witnesses on the stand to rebut the testimony of the State's witnesses.

"Counsel for the defense further protests against the reading of the confession to the jury until all the witnesses relative to the confession have been heard."

By Mr. Langridge:

"Does the Court want to hear a reply from the State on that argument?"

By the Court:

"If you want to reply, I will not cut you off.

Mr. Langridge:

"All right. The State will not reply to his objection."

[fols. 109-343] By the Court: (Trans. 732.)

"My impression of criminal procedure and practice is that, when a statement or confession is offered in evidence, the State is required to lay the proper foundation showing the absence of fear, duress, threats, menaces, violence, intimidation, inducements or promises of any kind in connection with obtaining the confession, as set forth in the Statute. That is done outside the presence of the jury at the request of the Attorney for the Defendant. When all these matters are taken up and the witnesses put on the stand, then argument is made. Then, and only then, does the defense set up its plea in bar of the confession being admitted in evidence.

"It would be a vain and useless thing, after having disposed of the objection of the defense outside the presence of the jury, on the introduction of a confession, to go through the same procedure all over again in the presence of the jury.

"It is a matter for the Court to pass on outside the presence of the jury, and the Court has already ruled on that.

"Therefore, the objection is overruled, and the Court instructs the District Attorney to proceed."

Whereupon, the Court having overruled the objection of counsel for the accused, then and there counsel for the accused excepted to the ruling of the Court, reserved a Bill of Exception to the ruling of the Court, and made the evidence of the State witnesses on the confession, before the jury, and the ruling of the Court, part and parcel of his Bill of Exception; which, first having been tendered the District Attorney, was given to the Judge for his reasons and signature.

(Signed) Lubin F. Laurent, Attorney for Defendant.

[fols. 344-367] IN TWENTY-FOURTH JUDICIAL DISTRICT COURT IN AND FOR THE PARISH OF ST. CHARLES, STATE OF LOUISIANA

No. 2,501 (Murder)

STATE OF LOUISIANA

versus

MILTON HAROLD WILSON

HON. LEO W. McCUNE, Judge

Excerpts from Reporter's Transcript of Trial Proceedings

Transcript of Testimony and Proceedings, taken on the trial of the above entitled matter on merits, April 11th, 1949, April 12th, 1949, April 13th, 1949, April 14th, 1949, April 15th, 1949.

APPEARANCES:

Frank H. Langridge, Esquire, District Attorney; L. Julian Samuel, Esquire, Assistant District Attorney; D. Elmore Becnel, Esquire, Assistant District Attorney, Attorneys for the State; Lubin F. Laurent, Attorney Appointed to Represent the Accused.

[fols. 368-379] TESTIMONY OF DR. JOHN E. CLAYTON

* * * * * * *

A. Yes; she bled some; where her head was lying, there was some blood on the floor.

Q. So, if her body had been dragged from the bed to the middle of the room, where she was lying when you arrived, there necessarily would have been blood on the sheet—between the head of the bed where she had been lying and the spot where she was lying on the floor; wouldn't there?

A. If she had been dragged, I think there should have been;

[fol. 380] TESTIMONY OF EDWIN GUIDRY

* * * * * * *

Cross-examination

By Mr. Laurent:

Q. You say you went there to the Petrolia home at six-thirty (6:30) A. M.

A. Thereabouts; yes.

Q. You went in through the front door?

A. Yes, sir.

Q. Was the front door unlocked?

A. Yes, sir.

Q. Was it partly open?

A. Yes, sir.

Q. And then you went through the house?

A. Yes, sir.

Q. And right through the back door; is that right?

A. That's right.

Q. How was the back? Was it closed or open?

A. It was open at the time.

Q. Was it propped open?

A. It was. There was a pole against the back door.

Q. There was a pole propping it open?

A. Yes, sir.

Q. You say you looked at the bed of Mr. Petrolia?

A. Yes, sir.

Q. Presumably, then, you did see the pillow on the bed?

A. Yes.

Q. Was it soaked with blood?

A. That's right.

Q. Did you see Mrs. Petrolia lying on the floor in the middle of the room?

[fols. 381-475] A. Yes, sir; that's right.

Q. Was she lying in a pool of blood?

A. Yes, sir. Her head was in a pool of blood.

[fol. 476] TESTIMONY OF LT. FRANCIS T. MOORE

Q. Was there any violence used, or was the statement made under the influence of fear, duress, threats, menaces, intimidation, inducements or promises of any kind, in order to get him to make that statement?

A. No, sir.

Q. Was any act of any kind done in any manner to compel him to make any statement?

A. No, sir.

Q. Will you tell us what happened, and how you came to get the statement at that time?

By the Court:

The Court at this time will have to state that in the opinion of the Court, in furtherance of the overruling of the objection, that it is Court's opinion, from the answers elicited from this witness to the questions asked by the District Attorney, that the proper foundation has been laid.

Mr. Laurent:

I object that the proper foundations has been laid unless the witness has been cross-examined; and I have not cross-
[fols. 477-497] examined him yet. A mere statement is no foundation.

Furthermore, if Your Honor please, and before proceeding any further, I want to make a motion that the jury be withdrawn; then I'll argue it.

[fols. 498-503] TESTIMONY OF CAPT. JAMES MEREDITH

Q. Did he have an opportunity to complain, if he had wanted to?

A. No. In fact, I changed him from the first floor to the fifth floor, and got a blanket to put around him.

[fol. 504] Cross-examination

By Mr. Laurent:

Q. You say that you were the one who took Lieutenant Moore, Deputy Sheriff Prejean and Sergeant Mack to the room?

A. Yes, sir.

Q. That was the Execution Room of the Parish Prison; was it not?

A. Yes, sir.

Q. That room has a trap-door in the floor, used for hanging people. Is that right?

A. Yes, sir.

Q. It also has a hook and rope on the ceiling; hasn't it?

A. They have an eye-bolt in the ceiling. No rope.

[fol. 505] Q. The table was close to the trap door; was it not?

A. It could have been. I know there was a rail that divides the room; and they were inside the railing with the table.

Q. Wilson was facing Lieutenant Moore; was he not?

A. I would not remember that. I don't know that. The only thing I can remember is that Lieutenant Moore did the typewriting there before the other three (3) men seated there.

Q. Did Lien tenant Moore type the answers as the questions were asked?

A. He was typing practically all the time, I know.

[fols. 506-537] Q. During the times that you went in there, was Wilson answering the questions as Lieutenant Moore was asking them, and Lieutenant Moore writing down his answers?

A. I don't remember Lieutenant Moore asking any questions.

Q. Well, how did he get his information?

A. The few times I was in there, Wilson was talking.

Q. Wilson was always answering at the time you went there?

Mr. Langridge:

Now, I object to that. The witness did not say he was answering questions every time the witness went there. He said Wilson was "talking" the few times he went there. The question is certainly not a proper one. The witness testified that Wilson did all the talking; and then counsel asked him did Wilson answer the questions as Lieutenant Moore was asking them; and the witness said he don't recall Lieutenant Moore asking any questions.

[fols. 538-592] TESTIMONY OF EDWARD J. PREJEAN

Mr. Laurent:

Q. All right. Was the cursing done when Wilson refused to answer the questions, or didn't give the answers that the Sheriff wanted him to give?

A. No; I wouldn't say that.

Q. Well, what would you say? When was the cursing done?

A. I told you it was general while we were in there—like a bunch of men will. I didn't say they were aimed at Wilson, at any particular time or any particular person or for any particular reason.

Q. What kind of cursing were they doing there?

By the Court:

Tell him the exact words you heard, and the same language, if you can recall it.

A. I can't recall them.

[fols. 593-606] TESTIMONY OF TOM BRADLEY

Q. After he got in the building, you brought him where?

A. We have a first aid room that adjoins a big room for the Troopers, and we have all our books and ammunition, etc., there—it's a room which adjoins a large room.

Q. There were quite a number of people there; were there not?

A. There were several there—all deputy sheriffs and employees of the State Police.

[fols. 607-611] TESTIMONY OF LEON C. VIAL

Q. Well, then, why did you want another confession?

A. After reading over the other confession with Lieutenant Moore, who has had a great deal of experience in obtaining confessions, we decided that certain of the words that he used in explaining his acts on the person of Mrs. Petrolia were not very clear—they were not plain enough. That is the only reason for asking him to repeat his story, and to use those words as he knew them and not to dress them up; and that's the only reason we asked him for the other confession. If you want me to give you an example, I will do that.

Q. Wasn't the reason that you knew violence had been used on him at Huey Long Bridge Police Station to get the first confession, and you knew it was no good?

A. No, sir; positively not.

[fols. 612-614] TESTIMONY OF MILTON MONGRUE

Q. You have no idea how many people were in that room?

A. Well, they were not to the extent of twenty or twenty-five.

[fols. 615-618] Q. It is the usual custom to take prisoners to jail when they are arrested; isn't it?

A. Yes.

Q. But it was not done on that occasion; was it?

A. He was taken to jail.

Q. At what time was he taken to jail?

A. I would say in the neighborhood of five (5:00) o'clock in the morning.

Q. It was daylight then, was it not?

A. Just about that time—about daybreak.

Q. And all that time, he was sitting in that room in the Huey Long Bridge State Police Station; is that right?

A. That's right.

Q. Did you give him anything to eat or drink?

A. I don't think he ate anything. I don't know whether he drank anything, or not; but he could have had some water if he had asked for it.

Q. You were there all the time; weren't you?

A. I was.

Q. Well, you would know if he drank anything; wouldn't you?

A. I didn't pay attention. I know he did not eat anything.

Q. If he had drank anything, you would have seen it; wouldn't you?

A. Possibly.

Q. He was not taken to the dressing room either; was he?

A. I don't think he was.

Q. That's all.

[fols. 619-643] TESTIMONY OF VICTOR ANDERSON

Q. Did you hear any conversation between Deputy Sheriff Guidry and the accused?

A. Yes, sir.

Q. Was there any questioning by Guidry or anyone else concerning the crime that he was accused of, or the crime that he was suspected of?

A. Will you make yourself clear on that?

Q. This conversation that you heard—did that include any questions by Mr. Guidry or anyone else about what this

man had done or had not done in connection with the crime with which he was charged?

A. Yes.

[fols. 644-652] TESTIMONY OF EDWIN GUIDRY

* * * * * * *

Q. Let's put it this way: Did you at any time strike the accused?

A. No, sir.

Q. Did you see anyone strike him or slap him at any time?

A. Yes, sir.

Q. Did you see anyone else strike him on more than one occasion, or more than one time?

A. No.

Q. What was the one occasion, or one time? Where did that take place?

A. Right in that little station.

Q. What station?

A. This police station in Hammond.

Q. What happened at that time?

A. Well, this man just come in there and slapped this man. I was using the telephone at the time. I just turned loose the telephone and asked him not to do that, and he just walked out of the place. I don't know who the man was.

[fols. 653-666] Q. But you did not answer my question: I asked you did you not testify on the witness stand at the last trial, that Milton Harold Wilson did not have anything to eat or drink from the time you arrested him until you took him to the Parish Prison?

A. I think I did.

[fol. 667] MRS. LUCY VANDERLINDEN was called as a witness on behalf of the accused; and, being first duly sworn, testified as follows:

By Mr. Laurent:

Q. Mrs. Vanderlinden, what is your occupation?

A. Postmistress.

Q. Postmistress where?

A. New Sarpy, Louisiana.

Q. After the killing of Mr. and Mrs. Joseph Petrolia at New Sarpy, Louisiana, did you have occasion to help the officers of St. Charles Parish in locating Milton Harold Wilson, the accused?

A. Yes, sir. At their request.

Q. Will you tell the Court how this was done?

A. Well, I am not a handwriting expert, but I am an amateur; and they asked me would I help them in that manner should Milton Harold Wilson use my office for correspondence with his people, and call them any time any message would come through my office.

By Mr. Langridge:

I object to that line of testimony on the ground that if [fol. 668] this is rebuttal testimony and the purpose of it is to rebut the testimony of Mr. Guidry, then I say that it is not rebuttal testimony because Mr. Guidry admitted that it was through Mrs. Vanderlinden that he got the information.

By Mr. Laurent:

If Your Honor please, he testified that he got the address from Augustine James.

Mr. Langridge:

But that it was through Mrs. Lucy Vanderlinden.

By the Court:

Do you wish to show that he got it directly from this witness?

Mr. Laurent:

Yes. That is what I am going to attempt ro prove.

By the Court:

If that is the purpose, proceed.

Mr. Laurent:

Q. Continue, Mrs. Vanderlinden.

A. Well, when I told Mr. Guidry where he would find this man, not by the return address on the envelope, but by the

postmark from the office from which this letter came, he went out that night, leaving the office about seven thirty (7:30); and that's the last I heard of him until the next [fol. 669] morning about a quarter to seven, when he returned to my office and told me that Pete Wilson—as we called him—had confessed. To this I said, "How much beating did you have to do to make Pete Wilson confess?" —(interrupted by)

Mr. Langridge:

I object to that on the ground that it is not rebuttal.

By the Court:

Proceed. The objection is overruled.

A. (Continuing). His answer to that question was, "I did not strike him; but the boys worked on him". Then he left me off at my office.

Q. Did he say that they had made him confess?

A. Absolutely.

By the Court:

Q. Use the exact words he used. What words did he use in telling you that?

A. Just what I have said.

Q. I don't know what you said. Say it again?

A. He said he did not strike him, but the boys worked on him.

Mr. Laurent:

Q. And made him confess?

Mr. Langridge:

I object to that question. He is now leading the witness.

[fol. 670] By the Court:

Don't lead the witness, Mr. Laurent.

To the Witness:

Q. What is correct lady?

A. I don't understand what they are tal-ing about now, judge. I'm telling him what happened between me and Mr. Guidry. I'm giving the man the testimony.

By Mr. Laurent:

Q. What else besides that did Mr. Guidry say, after he told you "the boys worked on him"?

A. He said he had gotten a confession from Pete Wilson; and I asked him what the confession consisted of; and he said that the confession of a statement that he entered through the front door to the home, as we had witnessed it that day, and had left through the back door. To this I objected, and told him, or rather asked him, if he did not know that the entrance had been made through the back door and not through the front door.

It was then that they went back and got the second confession—(interrupted by)

The Court:

Now, lady, you tell what you know of your own knowledge, and nothing else. Did he tell you he went back and got a second confession?

A. He did not tell me he went back and got a "second" confession; but he told me he went back and got "another one". He returned and told me that they had gotten the [fol. 671] second confession, but that's all I knew about it. I did not know what the second confession consisted of until I heard it in the court room.

Mr. Laurent:

Q. Now, concerning this address—Tell the Court how you got the address?

Q. There was no return address on the envelope; the address was strictly a postmark. By that I mean that Pete Wilson's name was not attached to it in any way. It was strictly by handwriting comparison that I knew it was his.

Q. Did you tell Mr. Guidry about that?

A. Yes. He knew that's why I knew it was his.

Q. Did you tell Mr. Guidry what the postmark or address was?

A. Yes. It was "Natalbany, Louisiana". At first he thought it was a little far-fetched, and did not want to listen

to it; but he had asked me to assist him, and he finally took me up on it.

Q. Did he tell you that he was coming directly from the Bridge when—(interrupted by)

Mr. Langridge:

I object to any question on the part of Mr. Laurent which is in effect leading. Any time he asks her "Did he tell you so and so", he is leading the witness. Let him ask her "What did he tell you", or something like that.

[fol. 672] Mr. Laurent:

Q. At the time that he made the statement "The boys worked on him", did Mr. Guidry tell you where he was coming from?

A. Yes. He told me he was coming from the New Orleans prison where they put the prisoner in for safe-keeping.

Q. At that time, did he tell you whether or not he had been home?

A. No; he had not been home. He told me he was just coming from the prison.

Q. That's all.

Cross-examination

By Mr. Langridge:

Q. What is your name?

A. Lucy Vanderlinden.

Q. You testified that you got this particular address from a post card; is that right?

A. No. It was off of a letter. I said a "postmark", not a post card.

Q. To whom was the letter addressed?

A. It was addressed to his cousin, Eddie Vinet.

Q. Do you know anyone named Augustine James?

A. Yes. That's his aunt.

Q. Whose aunt?

A. Pete Wilson's aunt.

Q. Do you know of any information having been received from Augustine James,—rather from her directly, or from her through you through the mails, in connection with [fol. 673] the place or the location of the defendant?

A. Had there been any information received from me through Augustine James? At the time of the arrest, do you mean?

Q. Prior to the time of arrest.

A. Oh, no. I don't know of any word coming from her.

Q. How about at the time of the arrest?

A. No. This was the first message I saw come through the mail. She did not say anything to me.

Q. Do you know a woman named Augustine James?

A. Oh, yes. I know her very well.

Q. This party you say the letter was addressed too—what was her name?

A. That was Eddie Vinet—that's a man.

Q. Do they live together?

A. Yes.

Q. Eddie Vinet and Augustine James live together?

A. Yes; that is her son.

Q. When did this conversation take place between you and Mr. Guidry?

A. Well, it started at a quarter to seven on the morning of July 16th—after he made the arrest on the night of July 15th.

Q. You say "after he made the arrest July 15th". Do you know he made the arrest on July 15th?

A. Yes. He was already home on the morning of July 16th.

Q. Do you place the date of this conversation any other way except by the fact that he had made the arrest on [fol. 674] the previous night?

A. Not necessarily.

Q. I did not ask you whether it was "necessarily" or "not necessarily". I asked you: Do you place the date in any other way except by the fact that he had made the arrest on the previous night? In other words, you are referring to a particular date—July 16, 1946; is that right?

A. That's right.

Q. Now, how do you determing that this occurred on that particular date?

A. Because it was exactly one (1) month to the day, after the murder. The children were killed on the night of June 15th. We found their bodies on June 16th. Then the arrest was made exactly one (1) month later, which was

the night of July 15th, and then Mr. Guidry returned to me on July sixteenth.

Q. How do you know that the arrest was made on July 15th.

A. Because he told me so.

Q. Who told you so?

A. Mr. Ed Guidry.

Q. When did he tell you that?

A. That morning of July 16th.

Q. Who was present when he told you that?

A. He and I were sitting in his automobile. He stopped by to pick me up and take me to my office.

[fol. 675] Q. There was no one else present?

A. No. We were talking together.

Q. You stated that in your conversation with Mr. Guidry, you asked Mr. Guidry whether or not he had hit the defendant Wilson?

A. Yes. I asked him, "How much beating did you have to do to make him confess?" and Mr. Guidry said "I did not strike him. The boys worked on him".

Q. And then he proceeded to tell you about the confession?

A. That's right. And that's when I laughed at the confession because he stated that the entrance was made through the front door and I knew it was through the back door because I had seen the back door was broken and not the front door.

Q. And after you pointed that out to Mr. Guidry, he went back and got another confession; is that right?

A. Yes.

Q. How do you know that he went back and got another confession?

A. Well, he came back and told me he had one; but I did not know what was in it until it was read in court. I heard the testimony in the first trial.

By the Court:

Q. You mean you were a witness last time this case was tried?

A. No, sir. I heard the testimony given in the trial.

Mr. Langridge:

Q. You heard all the testimony in the last trial—every word, every day?

[fol. 676] A. I never missed a word—in the Supreme Court or anywhere.

Q. You heard Mr. Guidry testify in the previous trial?

A. Yes.

Q. You heard the other testimony regarding the confession?

A. Every word of it.

Q. Did you tell anyone that what was going on was not correct?

A. Where? Who do you mean?

Q. I mean, at any time after you heard the last trial.

A. Oh, I told a number of people that I did not think it was right. I did not think the trial was what I expected it to be—the evidence did not seem to be what I was expecting. I came over to listen to it with open mind. I didn't know any better.

Q. But when you hear this testimony given by Mr. Guidry and the others about the confession at the previous trial, why did you not offer then, the same testimony that you are offering now?

A. Well, to be frank with you, I wanted my name kept out of it. I had asked Mr. Guidry to keep my name out of it; and not to say where he got his information. I just did not care to have my name get into it. But when I saw the necessity of somebody going to the front and telling the truth about it;—when I saw my name was going to be mixed up in it, anyhow.

Q. You say "when your name was going to be mixed up in it anyhow, what do you mean?

A. Well, it seemed like it was almost impossible to keep it out.

[fol. 677] Q. Why was it impossible to keep it out?

A. Possibly that part has not come to light yet.

Q. Well, I'm asking you. How or why was it impossible to keep your name out of it?

A. Well, there are some papers that Mr. Laurent may show later—something that has my name on them.

Q. Where did they come from?

A. In other words it was a threatening note received by the dear girl's people in July—after this man was convicted. On July 9th Mr. Guidry brought me another note, asking of I could help him on that one; and I figured that's the way my name had to come into the thing anyway.

By the Court:

Q. What date was that?
A. In July.
Q. Of what year?
A. 1947. I think the trial was April, 1947. But this was in July, 1947—after the trial.

Mr. Samuel:

Q. You say you saw another letter?
A. Yes.
Q. Who brought it to you?
A. Mr. Guidry.
Q. Where did he get it from?
A. Well, when the note was received, the people got alarmed and called him and gave him the note, as an officer; and he brought it to me and asked if I knew who was [fol. 678] doing this. I told him if the party used my office—if it came through my office—I would be able to tell him. Well, the party did use my office in about three (3) weeks; and I identified his handwriting.
Q. What happened to this particular letter?
A. Mr. Laurent has it.
Q. How did he get it?
A. After my work was completed, I turned it over to him.
Q. How long did you keep it in your possession?
A. A long time.
Q. Well, how long?
A. I did not turn it over to Mr. Laurent until just before this trial started. The District Attorney saw it. I showed it to him.
Q. Who did you get it from?
A. It was brought to me by Mr. Guidry.
Q. Mr. Guidry left this letter with you?
A. Yes.
Q. Then why did you give it to Mr. Laurent?

A. To be used in this trial—because it has had its comparison made already.

Q. Its comparison to what?

A. To the handwriting of the man who sent it.

Q. I still don't understand why you say that you are testifying now because your name could not be kept out of this case due to the fact that your name appears in a letter which you had in your possession and which you [fol. 679] have turned over to Mr. Laurent only very recently. Will you explain that?

A. Well, the reason why my name got in there, the handwriting expert that passed on it for me, had addressed all of his work to me.

By the Court:

Q. You are not a handwriting expert, are you lady?

A. I'm an amateur. Not bad though.

Q. What are your qualifications as an expert?

A. I said I am an amateur; not an expert. That's the reason. That's why I brought up about the handwriting expert passing on it after my findings, and he addressed his work to me; and I turned it over to Mr. Laurent.

Mr. Samuel:

Q. Well, how could your name become involved in any trial of this case simply because it appeared on a letter in your possession and which you retained in your possession over a long period of time?

A. Because when Mr. Laurent was preparing his work for this trial I turned the letter over to him; and it had my name on it. So naturally my name would become involved then, would it not?

A. But if you had not turned this letter over to Mr. Laurent, your name necessarily would not have been brought up; would it?

A. No. And neither would the evidence.

[fol. 680] Q. Then what was the difference between turning the letter over to Mr. Laurent, or turning it over to the authorities who were interested, if there were possible discrepancies?

A. Possibly I did—possibly I did take it up with them.

Q. With whom?

A. With Sheriff Vial.

Q. At the time of the first trial?

A. After the first trial.

Q. You mean after the man was found guilty?

A. Yes.

Q. Why did you wait until then.

A. Well, I came over here as a spectator. I had no idea of this then. This happened three (3) months after he was convicted. I couldn't help it if it was too late.

Q. What happened three (3) months after?

A. That the people were threatened.

Q. What about the conversation you had between you and the deputy?

A. That was strictly between me and the deputy.

Q. You did not consider it was your duty to come here and testify as to that?

A. I thought he was going to testify to it. I was not scheduled to testify. I could not get up and say "Oh Mr. Guidry you said so and so".

Q. Well, the trial did not end after Mr. Guidry gave his testimony; did it?

A. No. It went on and on.

[fol. 681] Q. As a matter of fact the question involving the notes that you refer to did not have anything to do with Mr. Guidry's testimony, except insofar as that testimony applied to the admissibility of the confession. Is that correct? In other words, it was not only Mr. Guidry's testimony that you objected to; it was the testimony of all the witnesses for the State who testified on the question of the confession. Is that correct?

A. Well, I would not say all of them. I don't remember all of their statements that were made during the trial.

Q. How was your name mentioned in this particular letter?

A. In the letter from the handwriting expert—which was addressed to me. In other words, his findings of this, when he made this comparison—this work was addressed to me.

Q. In other words, it is your impression that your name would be brought into this case because of the fact that that letter from the handwriting expert addressed to you, would be introduced in evidence. Is that it?

A. That's right—and my name is on it. So consequently I would be drawn into it.

Q. Who sent the handwriting expert this particular letter that you have in mind?

A. You mean the comparison sheets? You mean the note Mr. Guidry gave me, and the sheet I made my comparison with? I sent them myself.

Q. Is that the threatening letter?

A. Yes.

[fol. 682] Q. Did you put that in the mail?

A. No. I took it down there.

Q. Did you leave it in his possession?

A. Yes.

Q. For how long?

A. Oh—possibly a week or ten (10) days.

Q. Who is the handwriting expert you have reference to?

A. Well—Mr. Gilbert Fortier, Jr., is the one who made the comparison. Mr. E. J. Walt also made a comparison, but he said he would not give his testimony—in other words, due to the nature of the case, he refused to make his decision and give his testimony.

Q. You mean he refused to give you a letter on it?

A. That's right.

Q. Is it your impression that the letter from the handwriting expert could be used in evidence?

A. No; but it would bring my name into the case. It certainly would have to be brought before the jury.

Q. Let me make a statement to you: If a thing is not introduced in evidence, the jury cannot see it. How did you expect to get the letter before the jury?

A. I turned it over to Mr. Laurent in helping him with the trial of his case.

Q. Certainly Mr. Laurent did not tell you that the letter could be introduced as is; did he?

A. I don't know what you mean by that.

[fol. 683]By the Court:

Q. Lady, let me ask you this: What did you make this comparison with? You had this one (1) threatening letter or note. That had to be compared with something by these handwriting experts. What did you give the experts to make their comparisons with?

A. Well, I told Mr. Guidry that I would like for him

to get a letter from this man. So he sent him a note, and the man answered that; and his answer was used in the comparison. I worked hand in hand with Mr. Guidry. When this answer came in, I got that and used it in connection with my comparison sheet.

By Mr. Samuel:

Q. Why did you do all this, Mrs. Vande-linden?

A. Well, I suppose you would say, in the name of justice. I would like to see justice done. I wanted to see the guilty man brought to justice.

Q. Do you still want to see it?

A. I would like to see it.

Q. You say you had occasion to speak to Sheriff Vial about it?

A. Yes.

Q. About what time? And where?

A. I don't know, when, but it was after—It must have been in the Spring of last year that I spoke to Mr. Vial on the subject and told him how I felt about it.

[fol. 684] Q. You say you told him how you felt about it?

A. Yes.

Q. Where did you have this conversation with him?

A. In his office.

Q. His office in the courthouse?

A. Yes, sir.

Q. Was anyone present at that time?

A. No. Just him and I.

Q. Did you talk to anyone else about this general subject?

A. You mean that day in the Sheriff's office?

Q. No. At any time since the crime happened.

A. Well, I talked considerably about it; yes.

Q. Have you talked to any of the other officials about it since the first trial?

A. No. Just to Mr. Langridge, the District Attorney, in his office.

Q. What did you have to say to him about it?

A. Just about like I spoke to Sheriff Vial about it.

Q. Well, that doesn't tell me much. What did you tell him about it?

A. Well, I spoke to him about the situation as I saw it—that the most they had here was not evidence; and that

I was very much for bringing the guilty party to justice—the man I thought had done it and the man I had reason to believe was still threatening the balance of the family.

Q. In other words, you disagreed with the authorities, who appeared to be under the impression that this particular defendant had commit-ed the crime; is that it?

[fol. 685] A. Very much so—from the murder date when I went in and saw the children on the floor, right up to now.

Q. As soon as you looked at the children lying on the floor there, did you know that this man did not commit the crime?

A. Yes. My words to the man were, "When you find the man who did this, his face won't be black".

Q. What did you base that conclusion on at that time?

A. Trouble.

Q. That's all.

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[fols. 686-687] By Mr. Samuel:

Well, if Your Honor please, I think that when the State says that it submits the matter, and then counsel for defendant wants to argue, then I believe the State should have a right to reply to that argument.

By the Court:

You certainly have the right to rebut his argument.

(Whereupon argument was made by counsel for the State and counsel for the defense.)

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RULING THAT CONFESSION IS ADMISSIBLE IN EVIDENCE

By the Court:

The Court, after having considered the testimony of all of the witnesses produced on behalf of the State in its application for the admission of a confession dated July 18, 1946 in the Parish Prison in New Orleans; and after giving due consideration to both the direct examination and cross examination, and also considering the evidence that was adduced at the first trial that is within the knowl-

edge of the Court as attested by the Per Curiam attached to the Bills of Exception reserved in the first case,

The Court is of the opinion that the confession made by Milton Harold Wilson on July 18, 1946, at the Parish Prison in the City of New Orleans, was given freely and voluntarily, and admissible in evidence.

[fols. 688-728] Mr. Laurent:

All right. I reserve a Bill of Exception to the ruling of the Court, and make the ruling of the Court and all the testimony on the admissibility of the confession, part of my Bill of Exception.

By the Court:

Bring the jury in, Mr. Sheriff.

[fol. 729] Offer of State Exhibit Marked "P" and "Q"

Mr. Langridge:

Well, I now re-offer in evidence in connection with the testimony of Lieutenant Moore, Sergeant Mack, and Deputy Sheriff Prejean, the confession dated July eighteenth, 1946, identified by the witnesses, and previously marked for identification "State 'P' " and "State 'Q' ", and ask permission at this time to read the confession to the jury.

By Mr. Laurent:

I object to that, if Your Honor please. How can the confession be introduced in evidence until all the testimony has been heard on the confession. How can counsel ask permission to read the confession to the jury, not knowing whether it will be admitted or not. Such a thing is legally impossible. All the evidence on the confession has not been heard.

Your Honor is not in position to admit the confession, and it certainly cannot be read to the jury until your Honor admits it in confession. And you cannot admit it in evidence until all the testimony has been heard on it.

By Mr. Langridge:

You asked last night how many witness the State had left to be heard, and I said that there were three—Lieu-

tenant Moore, Sergeant Mack, and Deputy Sheriff Prejean; [fol. 730] and that that would be the extent of the State's case on the admission of the confession. I have offered those three witnesses, they have testified, and I have offered the confessions in evidence and I now ask permission to read it to the jury.

By Mr. Samuel:

If Your Honor please, for the purpose of facilitating things—The State has offered the confession in evidence. The Court has not ruled. We have asked permission to read it to the jury.

Now, if there is some other evidence that Mr. Laurent wants to offer, and if the Court thinks it will be fair to hear that evidence, let us hear it.

Mr. Laurent:

I say that it is not possible to read a confession to the jury until such time as it has been admitted in evidence; and that it is not possible for Your Honor to admit it in evidence until all the witnesses are heard on it.

By the Court:

I take it that the State has tendered the confession in evidence; is that right?

Mr. Langridge:

Yes; that's right.

[fol. 731] By the Court:

Is the matter submitted on that question, Mr. Laurent?

Mr. Laurent:

Yes.

RULING ADMITTING CONFESSION IN EVIDENCE

By the Court:

The Court is going to rule that the confession is admissible and can be read to the jury.

With regard to your statement about evidence the Court says that any evidence on the admissibility of that con-

fession is covered in the attack made outside of the presence of the jury.

Proceed to read the confession.

OBJECTION TO ADMISSION OF CONFESSION IN EVIDENCE

Mr. Laurent:

I want to object to the introduction of the confession in evidence upon the ground that the defense has not been given the opportunity to present its witnesses on the admissibility of the confession in evidence; that the defense has not been given the opportunity to rebut the testimony of the State's witnesses; and counsel for the defense strenuously objects to the confession being read to the jury before the defense has had a chance to place its witnesses on the stand to rebut the testimony given by the State's witnesses.

Counsel for the defense further protests against the reading of the confession to the jury until all the witnesses [fol. 732] relative to the confession have been heard.

By Mr. Langridge:

Does the Court want to hear a reply from the State to that argument?

By the Court:

If you want to reply, I will not cut you off.

Mr. Langridge:

All right. The State will not reply to his objection.

By the Court:

My impression and appreciation of criminal procedure and practice in this State is that, when a statement or confession is offered in evidence, the State is required to lay the proper foundation showing the absence of fear, duress, threats, menaces, violence, intimidation, inducements or promises of any kind in connection with obtaining the confession, as set forth in the statute. That is done outside the presence of the jury at the request of the attorney for the defendant. When all those matters are taken up and witnesses put on the stand, then argument is made.

Then, and then only, does the Defense set up its plea in bar of the confession being admitted in evidence.

It would be a vain and useless thing, after having dis- [fols. 733-761] posed of the objection of the defense outside the presence of the jury, on the introduction of a confession, to go through the same procedure all over again in the presence of the jury.

It is a matter for the Court to pass on outside the presence of the jury; and the Court has already ruled on that.

Therefore, the objection is overruled; and the Court instructs the District Attorney to proceed.

By Mr. Laurent:

To which ruling of the Court counsel for the defense reserves a Bill of Exception, and makes the evidence of the State witnesses on the confession, before the jury, and the ruling of the Court, a part and parcel of his Bill of Exceptions.

By the Court:

Proceed, Mr. Langridge.

Whereupon the confession "State 'P' and 'Q' " was read to the jury by Mr. F. H. Langridge.

[fol. 762] Milton Harold Wilson, the accused, was called as a witness on his own behalf; and, being first duly sworn, testified as follows:

By Mr. Laurent:

Q. Your name is Milton Harold Wilson?

A. Yes, sir.

Q. Where do you reside? Where do you live?

A. Where I live? You mean now?

Q. No. What is your residence?

A. St. Rose, Louisiana.

Q. Were you in the habit of going out on Saturday nights? Where were you in the habit of going out on Saturday nights?

Mr. Langridge:

If Your Honor please, I would like Mr. Laurent to clear [fol. 763] that question up. He asks: "Where were you in the habit of going out on Saturday nights?" What

Saturday nights does he mean—some particular Saturday nights, or every Saturday night.

Mr. Laurent:

Q. Where have you been going on Saturday night, for the last two or three years before this happened?

A. Visiting different people in New Sarpy.

Q. Did you sleep over there at New Sarpy on those nights?

A. Some nights I did.

Q. At whose house did you sleep?

A. Lucien Smith's house.

Q. What did you all do on those nights—you and Lucien Smith?

A. We'd usually go around and drink at the bars.

Q. You all used to go drinking?

A. Yes, sir.

Q. With women?

A. Sometimes with women—with men and women.

Q. On the afternoon of June 15, 1946, which was a Saturday, where did you go.

A. Jenkins' Bar and Johnson's Bar.

Q. Where are they?

A. At New Sarpy.

Q. Didn't you go to a woman's house in the afternoon?

A. I did.

Q. What is the name of the woman?

A. Alice Johnson.

[fol. 764] Q. Didn't you fix somebody's house too?

A. Yes, sir; Eliska Jefferson.

Q. What did you go there for?

A. To tear down a house.

Q. Did you tear it down?

A. I did.

Q. About what time did you finish tearing down the house?

A. About four (4:00) o'clock in the evening.

Q. After that, where did you go?

A. In her house—I went in Eliska Jefferson's house.

Q. How long did you stay there? Till what time?

A. I stayed there about three (3) hours.

Q. Where did you go after that?

A. Jenkins' Bar.
Q. Is that near Eliska Jefferson's house.
A. Just about a block away.
Q. How long did you stay there?
A. At Jenkins' Bar?
Q. Yes.
A. Between two and a half (2½) and three (3) hours at that particular time.
Q. Where did you go from there?
A. Johnson's Bar.
Q. About what time did you go to Johnson's Bar? Do you remember?
A. Between ten-thirty (10:30) and eleven (11:00) o'clock I got there.
Q. Did you meet some people there?
A. I did.
[fol. 765] Q. Who, for instance, did you meet?
A. Alice Johnson.
Q. You met Alice Johnson there?
A. Yes.
Q. Who else?
A. George Washington.
Q. Were you with George Washington that night?
A. Yes.
Q. Who else were you with?
A. Curtis Allen.
Q. Who else?
A. I don't remember who all else was at Johnson's Bar.
Q. I mean people that you drank with or talked to.
A. You mean at Johnson's Bar?
Q. Anywhere.
A. Alberta Diggs.
Q. Anyone else?
A. Briscoe Pilate.
Q. Anyone else?
A. His wife—Mrs. Briscoe Pilate.
Q. Well, tell me all of them; don't make me ask you a lot of questions—I'm tired. You say you saw Alice Johnson at Johnson's Bar.
A. Yes.
Q. What happened, with reference to Alice Johnson?
A. I gave her a five dollar ($5.00) bill to get a quart

of wine. She took the wine, and the change from the five dollar bill, and carried it to her house.

[fol. 766] *A.* Did she tell you anything when she was going home?

A. She told me to come over there and get my change.

Q. Did you go to her house after you left Johnson's Bar?

A. I did.

Q. What happened over at her house?

A. When I went over to her house to get my change, she wouldn't give it to me; and I tried to make her give it to me and she grabbed her knife to make me leave, and I struck her with a stick, on the hand.

Q. How did you happen to get in the house?

A. She let me in the house—through the side door.

Q. Did you knock at the door?

A. I did.

Q. Then you did what—you had a fight with her?

A. I did.

Q. Did you have a fight with anybody else there?

A. No, sir; I did not.

Q. Did you see her sister, Julia May Turner, there?

A. No; I didn't see her sister. There was nobody in the room but me and her.

Q. Julia May Turner said you had a fight with her. Did you have a fight with her?

A. I did not.

Q. How about Clara Watson? Was she there.

A. No, sir. There was no one in the room but me and Alice Johnson.

Q. When you were going out did you see Clara Watson?

[fol. 767] A. I saw somebody standing outside. I don't know who it was.

Q. Where did you go after that?

A. I went to Lucien Smith's house and went to bed.

Q. Is Lucien Smith's house the place where you used to go every Saturday night?

A. Not every Saturday night—some Saturday nights.

Q. Was Lucien Smith there?

A. Yes, sir.

Q. Did he let you in?

A. He did.

Q. What did you do then?

A. He let me in, and he locked the door; and I went on to bed.

Q. Did you stay in bed till the next morning?

A. I did.

Q. Julia May Turner, and Alice Johnson, and Clara Watson—were they in the habit of going to the bar rooms too?

A. Yes, sir.

Q. Did they go there regularly?

A. Yes, sir.

Q. While there, did they drink with the men there?

A. They did.

Q. What happened the next morning at Lucien Smith's house?

A. Mr. Guidry and another man came there and they were looking for another man, and they woke me up.

Q. Did they wake Lucien Smith up too?

A. He was not there then; he was done gone.

Q. Where had he gone?

[fol. 768] A. I don't know where he went.

Q. Anyway, what did the officers do?

A. They searched Lucien Smith's house and my *t*loches, and asked me did I hear any funny noise that night when I came home to Lucien Smith's house.

Q. What did you tell them?

A. I told them I did not.

Q. What else did they do or say?

A. They told me that there was a killing that went on.

Q. Did they ask you if you knew anything about it?

A. They did.

Q. Did they examine your clothes, your bed, and everything?

A. Yes, sir. Mr. Guidry took my clothes up in his hand and looked at them.

Q. Did he examine the bed clothes?

A. Yes.

Q. What did they say to you then?

A. After that, they went out of the house and went around the house and searched around the yard.

Q. Did they go around the other houses in the neighborhood?

A. They left from Lucien Smith's house after they finished searching the yard, and went down the street.

Q. Did they go to other people's houses and search them?

A. I don't know where they went. All I know is they went down the street.

Q. Did they come back to Lucien Smith's house?

A. They did.

[fol. 769] Q. When did they come back there?

A. Between ten (10:00) and eleven (11:00) o'clock that day.

Q. Were you there?

A. I was.

Q. What did they do then?

A. They went around and continued searching around Lucien Smith's house.

Q. Were they searching the whole neighborhood?

A. The adjoining yard they did. I saw that; but I don't know about the rest of them. They searched Morgan Lane's yard.

Q. Did the officers tell you anything then, on their second trip there?

A. They still asked me had I seen Lucien Smith around.

Q. They had come back to see Lucien Smith then?

A. That's what they said.

Q. Did they find Lucien Smith?

A. I don't know.

Q. Was he there?

A. He was not there when they came there; no, sir.

Q. What did the officers tell you then?

A. They left, and they told me to go look for Lucien Smith, that they wanted to see Lucien Smith.

Q. Did they hold you in any way, or tell you to remain there, or not to leave, or anything of that kind?

A. No, sir; they did not.

Q. They were finished with you, then; is that right?

A. They were.

[fol. 770] Q. What did you do after that?

A. I left, and went over by Diggins' Bar.

Q. That was about what time of the day?

A. Oh, between eleven (11:00) and twelve (12:00) o'clock, I guess. I don't know exactly.

Q. What did you do after that?

A. After I left the bar room, you mean?

Q. Yes.

A. I went to Good Hope.

Q. Were you in the habit of going to Hammond, Louisiana?

A. For the last ten or twelve years.

Q. Who did you go see in Hammond?

A. Sadie Glasper.

Q. Did you go there regularly?

A. I did.

Q. Why did you go to Hammond?

A. My wife had business for me to come over there.

Q. You had a girl over there?

A. I had a common law wife over there.

Q. When you went to Hammond, where were you in the habit of stopping?

A. At her mother's house—Sadie Glasper.

Q. Is that where you went that time?

A. I did.

Q. Did you secure any employment in Hammond?

A. I did.

Q. Where did you get employment?

A. At the Independent Lumber Company.

[fol. 771] Q. Who had told you about the job there?

A. My mother-in-law wrote to me about the job.

Q. How long did you stay in Hammond then?

A. I was there until Mr. Guidry and Mr. Perilloux and another deputy, and two policemen from Hammond, came there and arrested me.

Q. About how long was that?

A. That was about a month after I was there.

Q. After they arrested you, where did they take you?

A. To the Hammond Police Station.

Q. What, if anything, happened at the Police Station in Hammond?

A. Mr. Guidry asked me had I had a fight with Alice Johnson, and I told him "Yes"; and after that he asked me what did I know about the murder of the Petrolias, and I told him I didn't know anything about it. Then the Hammond police started beating me to make me say I did it.

Q. Was that the Chief of Police?

A. That's what they said he was—the Chief. I don't know.

Q. Do you know his name?

A. No, sir.

Q. Who else was at the Police Station in Hammond?

A. There were three (3) or four (4) fellows there when we got there. I don't know their names.

Q. Well, if you don't know their names—what position did they have?

A. Well, one of them was in the uniform of the police, and the other ones had plain clothes. I don't know what clothes they had on.

[fol. 772] Q. Do you know whether it was the City Marshal?

A. The one who came and arrested me—he was the City Marshal.

Q. Did the City Marshal strike you while he was there?

A. Yes, sir—the City Marshal and two (2) other policemen of Hammond.

Q. They struck you?

A. Yes, sir.

Q. What did they strike you with?

A. With billies.

Q. Where did they strike you?

A. In the head and stomach.

Q. Then what happened while you were there?

A. Mr. Guidry told them not to beat me any more, that they would finish with me down at Jefferson Parish.

Q. Then what happened?

A. Well, we left the police station, and went in the bar room.

Q. Who went in the bar room?

A. Me, and Mr. Guidry and Mr. Perilloux and Mr. Sam—I don't know his other name, but he's a deputy sheriff too—and the Chief of Police and the Marshal, and another uniformed policeman—I don't know what his name is.

Q. Did you take any drinks there?

A. They took three (3) or four (4). I didn't take any.

Q. Did they offer you anything to drink?

A. They did not.

Q. After that, what happened?

A. We got in the car and left Hammond and came on to Laplace.

[fol. 773] Q. What happened at Laplace?

A. Mr. Perilloux and Mr. Sam got out and said they were going to get some coffee and something to eat.

Q. Did they give you anything to eat?

A. No, sir.

Q. Did they give you anything to drink?

A. No, sir.

Q. Did they offer you anything to eat or drink?

A. No, sir.

Q. Where did you all go from there?

A. We drove around the highway to Montz, and stopped at a house?

Q. At whose house?

A. Mr. Sam's house, and Mr. Perilloux's house.

Q. Who do you mean by "Mr. Sam"?

A. Mr. Sam Colconna, I believe they call him, one of the deputy sheriffs (Sam Calcagna).

Q. You say you stopped at both their houses?

A. Yes, sir.

Q. From there, where did you go?

A. We left there and went to the Huey Long Bridge Police Station.

Q. When you got there, who came to the car to get you out?

A. The State Troopers were the only ones I know—the State Police.

Q. Was there one man, or more than one man?

A. More than one.

Q. Where did they take you?

[fol. 774] A. Into the Station.

Q. Where, in the Station, did they take you?

A. They took me to a room in the station.

Q. Was it a small room or large room?

A. Well, it was a pretty good sized room.

Q. Who was in that room?

A. The only men I recognized were Sheriff Vial and Mr. Prejean and Mr. Mongrue.

Q. Who else was in there?

A. The other men were State Police, and they had some plain clothes men there too—I don't know who they were.

Q. Did Mr. Guidry, and Mr. Calcagna, and Mr. Perilloux go in there also?

A. Yes; they did.

Q. What did they do with you in there?

A. They sat me down on a stool in there.

Q. Then what did they do?

A. They went to questioning me.

Q. Did you answer their questions?

A. I couldn't answer the questions that they were asking me about the Petrolias.

Q. Did they ask you about where you had first been that night?

A. Yes, sir.

Q. Did you answer those questions?

A. Yes, sir.

Q. And when you could not answer anything about the Petrolia murder, what did they do you?

A. They went to beating on me.

[fol. 775] Q. Who beat on you?

A. Mr. Mongrue was the only one I know by name. The rest of the fellows, I don't know by name. Some of them had on uniforms, and some of them had on plain clothes.

Q. Did any of the State Police hit you?

A. Yes, sir.

Q. Did any of those who testified today hit you?

A. I don't remember if they did or not. Some of them were standing behind me; but I couldn't see Sergeant Mack in front of me.

Q. Do you know Sergeant Mack when you see him?

A. I do.

Q. Was it him who hit you?

A. I couldn't say, because he was behind me.

Q. Where did they strike you?

A. In the back, and in the stomach; and a couple of blows across the head.

Q. When you would not answer the questions, what did they tell you?

A. After we had been there all night long—— (interrupted by)

Q. While they were asking you the questions, and they came to the questions that you could not answer, what did they say or do?

A. They would beat me to make me answer the way they would tell me to answer.

Q. Was anybody writing on a typewriter?

A. Yes, sir; Mr. Prejean was writing on the typewriter.

Q. Did he continue to write after you could not answer [fol. 776] the questions they asked you?

A. No, sir; they didn't.

Q. You said that when they asked you questions about the killing, you could not answer them; is that right?

A. That's right; yes, sir.

Q. When you couldn't answer the questions, did they put down some kind of answer anyway?

A. Not at that time. At that time they weren't putting anything down.

Q. Well, when did they put something down?

A. Up until daylight, they had not put anything down; and after that time, the Sheriff—Mr. Vial—told me if I didn't do what he wanted me to do that he would take me out in the country and tie me behind a tractor and drag me and pour gasoline on me and burn me up.

Q. What happened at about five (5:00) o'clock in the morning?

A. I told him if he did not do that to me I would do anything he told me to do—that I would do anything the Sheriff told me to do if they would not drag me behind the tractor and kill me.

Q. What did the Sheriff tell you to do?

A. He wanted me to sign a confession.

Q. Did you sign it?

A. Yes; after he told me he was going to do that to me and would kill me if I did not sign it.

Q. (Showing document) Look at this paper. Is that the paper they made you sign?

A. That looks like it.

[fol. 777] Q. It looks like the paper they made you sign?

A. Yes, sir.

Mr. Laurent:

If Your Honor pleases, for the purpose of comparison with the other confession, counsel for the defense desires to offer and introduce in evidence, this document, although Your Honor has ruled it to be inadmissible as a confession.

Mr. Langridge:

I don't recall Your Honor having ruled it inadmissible as a confession. You did not pass on it, as I recall it. It was never offered in evidence. There was certain testimony taken, but it was never offered in evidence.

Now, Mr. Laurent, are you making an offer at the present time?

Mr. Laurent:

If Your Honor please, I am offering it in evidence for comparison with the other one.

Mr. Langridge:

If Your Honor please, he can offer it in evidence, but not for a limited purpose. The State has no objection to his offering it in evidence; but let him offer it for what it is or what it represents; not for a limited purpose.

We submit the matter to Your Honor.

[fol. 778] By the Court:

I don't recall having passed upon the admissibility of the document—which has been commonly referred to throughout the case but has not been tendered to the Court as an offer in evidence to be passed upon.

Do you want to introduce it now?

Mr. Laurent:

Yes; for that purpose—for the purpose of comparison with the other confession.

By the Court:

You cannot make the offer for a limited purpose. You may introduce it, but if you do it is for its full import, as to what it shows for itself.

Mr. Laurent:

Very well. I wish to offer and file in evidence, the confession made on July sixteenth, 1946, and I mark it "Defendant #2" for identification.

Mr. Laurent:

Q. After you had signed this document which I have marked "Defendant #2", what did they do with you?

A. You mean what did they do after we left the Bridge?

Q. Yes.

A. We went to the Parish Prison.

Q. Where?

A. In New Orleans—at Tulane Avenue and Broad.

[fol. 779] Q. Did they leave you there?

A. They did; yes, sir.

Q. While you were there, was it necessary for you to have a physician?

A. Yes, sir; I did.

Q. Did you ask the jailer for a physician?

A. I asked the Warden to get me one—Warden Miller. He was the Warden at the time.

Q. What did the physician prescribe for you?

A. Sulphur drug, and alcohol rubs.

Q. Why was it necessary for you to get medical treatment?

A. I was suffering from my head and stomach and back.

Q. What happened on July eighteenth, 1946, at the Parish Prison in New Orleans?

A. Lieutenant Moore and Sergeant Mack and Mr. Prejean were in there, and got me to come over in the Execution Room where they were. They had me brought over there.

Q. When you say "Execution Room", what are you referring to?

A. Well, that's the room where the- usually electrocute people and hang them—in that room.

Q. Did that room have a trap-door in the floor?

A. It did.

Q. What did they have in the ceiling above the trap-door?

A. There was a hook and ring up in the ceiling, exactly over the trap-door.

Q. Was your chair setting on top of the trap door?

A. It was.

[fol. 780] Q. Where were you sitting, with respect to Lieutenant Moore?

A. About three (3) feet across from Lieutenant Moore.

Q. Across from what?

A. From the railing. He was sitting beside the railing.

Q. Did they have anything between you and him?

A. They had a table.

Q. Where did Mr. Prejean and Sergeant Mack sit?

A. Sergeant Mack was not sitting down; he was standing.

Q. Where was he standing?

A. He was standing by the wall.

Q. What did they tell you there?

A. Lieutenant Moore told me he came there to get a confession from me. I asked him, "A confession about what?" and he said "About the murder of the Petrolias". I told him I did not know anything about that and I couldn't give him any confession on that.

Q. Then what happened?

A. That's when they told me that if I didn't do what they told me to do they were going to hang me; and asked me did I not remember what happened at the Bridge, and what I got at the Bridge, and I told him I did.

Q. Did they ask you some questions?

A. They took a confession sheet that Mr. Prejean had, and they copied off of that and made an addition on to it; and then they made me sign it. After they made me sign it, then they read it to me.

[fol. 781] Q. Were you willing to sign the confession?

A. No, sir; they made me sign it.

Q. How did they make you sign it?

A. They told me they were going to throw that trapdoor on me and hang me, if I didn't sign it.

Q. Then what happened? What did you do or what did they do?

A. So I told them if they would not hang me I would sign it.

Q. Did you sign it?

A. I did.

Q. When did you sign it?

A. When the Lieutenant, Moore, told me I had to sign it or he would hang me—that's when I signed it.

Q. Did you sign it before he read it to you?

A. I did.

Q. Then what happened after that?

A. He pulled some hairs out of my head and off the lower parts of my body.

Q. Then what did they do?

A. They put the hair in an envelope; and they they took me back in the death cell.

Q. Did I go see you in the Parish Prison?

A. You did.

Q. Were you able to stand up and talk to me?

A. No; I was not. I was under the doctor's treatment then.

Q. Did you try to stand up? Could you stand up?

A. No, sir. I was holding on to the bars, trying to stand up, but I couldn't.

[fol. 782] By the Court:

Q. How long after the signing of this statement down there was it that Mr. Laurent came to see you down there?

A. I don't know, sir.

Q. Well, about how long?

A. I don't know.

By Mr. Langridge:

I request that counsel at this time fix the time that he visited the accused.

Mr. Laurent:

Q. Can you fix the number of weeks—one, two, weeks—it was?

A. Fix what?

Q. Fix the time that I went to see you after this?

A. After I had doctor's treatment, you mean?

Q. Yes.

A. Oh, I don't know. I think it was about two (2) months after I had the doctor that I saw you.

Q. I came about two (2) months afterwards?

A. After I had had the doctor—yes, sir.

Q. Was it not less than that? Was it not less than two (2) months?

A. I got the doctor the day after I was taken down from the Huey Long Bridge Police Station—— (interrupted by)

Q. Well, between that time and the time I went to see you, how many weeks was that?

A. From the time the doctor came to see me?

[fol. 783] A. Yes—about how long after that?

A. I don't know, sir. I think it was about two (2) months. At that same time, I was still taking medicine, when you came there.

Q. When you were taken from the Parish Prison in New Orleans, where were you taken?

A. They brought me from there to here.

Q. They brought you to the Hahnville Jail?

A. Yes, sir.

Q. Then what happened after that?

A. A while after I got here, I was suffering with my stomach and head.

Q. What happened afterwards? Were you put on trial after you got here in Hahnville?

A. I was.

Q. What happened during the trial?

A. During the trial I was passing clots of blood. I was suffering with so much pain that the trial had to be stopped.

Q. Where did they take you on that day?

A. They took me to Charity Hospital the next day.

Q. How long did you stay in the Charity Hospital at New Orleans?

A. Oh, a week—maybe a little over.

Q. Then where were you taken?

A. I was brought back here.

Q. Then did you have another trial after that?

A. I did.

[fol. 784] Q. Do you know anything about what happened at the Petrolias' house?

A. I do not.

Q. Did you ever tell anybody—any of the officers at the Huey Long Bridge Police Station, or at the New Orleans Parish Prison, that you knew anything about what happened at the Petrolia home?

A. I did not.

Q. Is that all you know about this case, between June 15, 1946 and the present time?

A. Which case are you speaking about, Mr. Laurent.

Q. The case you are now on trial for.

A. I don't know anything about the case, even now.

Q. So that all you know about the case between that date, June 15, 1946 is what you told us; is that right?

A. I don't understand you, Mr. Laurent; I don't know anything.

Q. Is that all that you know with reference to the Petrolia killing?

A. I don't know anything at all about the Petrolia killing I tell you, Mr. Laurent.

Q. I mean with reference to the Petrolia killing?

A. Reference to what—what do you mean?

Q. I mean the Petrolia killing.

A. I don't understand you.

Q. I mean—about what was done to you.

A. You mean what was done to me at the Bridge and Parish Prison?

Q. No; you have told all about that. Is that all you know about the Petrolia killing? That's what I want to [fol. 785] know.

A. Mr. Laurent, I couldn't tell you anything about the Petrolia killing; because I don't know anything about it.

By the Court:

What he wants to know is this:

Q. Is the story that you have told him from the witness stand today—is that all you know about the Petrolia case.

A. Oh, now I understand you.

Q. You understand what I mean? We are not trying to ask you a trick question. What Mr. Laurent is trying to find out is this: Are your answers that you gave him to his questions everything you know about all this business?

A. Oh—yes, sir.

By Mr. Laurent:

Q. Is everything that you said true and correct?

A. Yes, sir.

Q. That's all.

Cross examination

By Mr. Langridge:

Q. You said at first, that you lived in St. Rose. Is that your domicile—your residence where you live?

A. That's my home town.

[fol. 786] Q. How far is St. Rose from New Sarpy?

A. Five (5) or six (6) miles, I guess. I don't know for sure.

Q. In the last two (2) or three (3) years, every Saturday night you would go from St. Rose to New Sarpy to have a good time; is that right?

A. I haven't been there for the last two or three years every Saturday night; no, sir.

Q. Didn't you tell Mr. Laurent that for the last two or three years you have been going to New Sarpy on Saturday nights?

A. I don't remember telling him that.

Q. Didn't he ask you where you had gone every Saturday night, or on Saturday nights; and then I objected to the question and wanted to know "for how long" he meant; and he said for the last two or three years?

A. I don't remember hearing him say "for the last two or three years"; no, sir.

Q. You don't remember him saying two or three years?

A. No, sir. That would be wrong, because I was not there that long.

Q. How long have you been there?

A. You mean how long before I was arrested?

Q. I mean; How long have you lived in St. Rose?

A. Six (6) months—since the war.

Q. You lived in St. Rose permanently since then?

A. Not permanently.

Q. Well, where did you live?

Q. I just lived there sometimes; and sometimes in New Sarpy; and sometimes in Hammond.

[fol. 787] Q. So when you told Mr. Laurent that you have been going to New Sarpy every Saturday night for the last two or three years, that is not correct; is it?

A. Not at that particular time.

Q. Would you say you have gone to New Sarpy practically every Saturday night for the past six (6) months?

A. Not every Saturday night—some Saturday nights.

Q. Are you out of town very often?

A. Well, in and out.

Q. But on this particular Saturday—June 15, 1946—at night, you were in town; weren't you?

A. Oh, I don't know—I don't understand you.

Q. On this particular Saturday night—You said that that Saturday afternoon you had gone to Jenkins' Bar first. When you first went to Sarpy that day, where did you go first?

A. Eliska Jefferson's place.

Q. How long did you stay there?

A. I was there all day long, working on a house.

Q. Did you go any other place?

A. After I left her house that evening, I went to Jenkins' Bar.

Q. What time did you get there?

A. Around seven (7:00) o'clock—between seven (7:00) and eight (8:00) o'clock.

Q. How long did you stay there?

A. I was there till between ten (10:00) and eleven (11:00).

Q. From there where did you go?

A. To Johnson's Bar.

[fol. 788] Q. How long did you stay there?

A. Until a little after midnight.

Q. Is that where you met Alice Johnson?

A. It is.

Q. What happened between you and Alice Johnson?

A. I gave her a five dollar ($5.00) bill to get a quart of wine.

Q. Did she buy the quart of wine?

A. She bought it, and she took the wine and my change to her house; and when she left she told me to come on over to her house and get the change.

Q. Who was with her at the time?

A. I don't know who was with her. There was plenty of people in the bar; I don't know who was with her.

Q. Was anybody in particular with her at the time? Was anybody with her when she left?

A. No. She left there by herself.

Q. What time was that?

A. After midnight.

Q. How long after midnight? Was it one (1) hour after midnight, or two (2) hours—how long after?

A. Well, between twelve-thirty (12:30) and one (1:00) o'clock, as close as I can guess.

Q. How long did you remain at Johnson's Bar after Alice Johnson left?

A. I don't know, sir.

Q. About how long?

A. Well—an hour, maybe.

[fol. 789] Q. Then would you say it was between one-thirty (1:30) and two-thirty (2:30) when you went over to Alice Johnson's house?

A. Between twelve-thirty (12:30) and one-thirty (1:30)—about.

Q. What time did you get to Alice Johnson's house?

A. Between twelve-thirty (12:30) and one-thirty (1:30)—that's as close as I can get to it.

Q. Who was there when you got there?

A. I didn't see anybody but her.

Q. Where was she?

A. In the middle room of the house.

Q. Who was she with?

A. She was by herself when I saw her.

Q. Was she in bed.

A. No. She got up and opened the door for me to come in.

Q. Did she have her night clothes on?

A. She did.

Q. She came and let you in, you say?

A. She did.

Q. Then what happened?

A. I asked her for my money.

Q. How did you ask her?

A. I told her I came for my money.

Q. What did she say?

A. She refused to give it to me.

Q. Why did she refuse to give it to you?

A. She said she was going to keep it.

[fol. 790] Q. Why did she refuse?

A. She didn't say why.

Q. What did you tell her?

A. I told her if she didn't give me my change, it would be me and her for it.

Q. Did she give it to you?

A. No. She grabbed a knife, to run me away.

Q. Where did she get the knife?

A. From a shelf.

Q. Where was the shelf?

A. In the middle of the room there.

Q. What kind of shelf was it?

A. It's around the fireplace—made out of brick and wood.

Q. Is that what they call a "mantel" over the fire-place?

A. I guess that's what they call it.

Q. The knife was laying on the shelf?

A. Yes.

Q. What did she do then?

A. She grabbed the knife and started towards me, and I picked up a stick and knocked it out of her hand with the stick.

Q. What kind of stick did you pick up?

A. It seemed to be a piece of broom handle.

Q. You picked it up; do you know what it was?

A. It was a round stick, like a broom handle.

Q. How long was it?

A. About that long (By the Court: indicates 2½ to 3 feet).

Q. It was about two and a half or three feet long?

[fol. 791] Q. Where did you pick it up?

A. Beside the shelf.

Q. What do you mean by that?

A. Alongside the wall, by the shelf.

Q. Was it laying on the floor, or was it standing up?

A. It was right in the corner of the frame of the door.

Q. How did you come to see that stick laying there? Did you look around for something to protect yourself with when she picked up that knife, and all of a sudden saw it? How did you come to discover the stick?

A. I saw it beside the wall there, and I grabbed it.

Q. Well, did you look for something? How did you come to see the stick?

A. I was not looking for something until she grabbed the knife.

Q. And then you looked around for something to protect yourself; is that it?

A. Yes. It was right in front of me.

Q. You say you struck her on the arm with it?

A. Yes, sir.

Q. What did you do then?

A. I went out through the side door.

Q. You didn't go out the back door?

A. No, sir.

Q. You say there was no one there but yourself and Alice Johnson?

A. That's all I saw.

Q. You did not see anybody else when you first came in?

A. No, sir. Alice was the only one in that room.

[fol. 792] Q. You didn't see somebody in the other room?

A. I didn't go in the other room.

Q. You said when you ran outside you saw somebody standing outside; is that right?

A. Yes, sir.

Q. Did you stop to say anything to them?

A. I dodn't know who they were.

Q. How far away were they from where you passed?

A. They were standing right in the road there.

Q. How far away from them were you when you passed them?

A. I must have passed about *eithg* (8) or ten (10) feet from them.

Q. Were you walking or running?

A. Walking.

Q. You did not stop to talk to this person, or tell them about any trouble you had?

A. No, sir.

Q. Then, as I understand it, you went to Lucien Smith's house and went to bed. Is that correct?

A. Yes, sir.

Q. What time was that?

A. Right after. I left directly from Alice Johnson's house and went to Lucien Smith's house and went to bed.

Q. How far is it from Alice Johnson's to Lucien Smith's house?

A. I don't know that.

Q. When you ran out of Alice Johnson's house, did you hear anybody holler?

[fol. 793] A. I never "ran" out of her house.

Q. Where did you throw the stick?

A. I left it in the house.

Q. You just dropped it in the house and walked nonchallantly out?

A. Yes.

Q. Did you ever get your change from the five dollars ($5.00)?

A. No, sir; not up to now.

Q. Didn't you tell her that if you didn't get your change, it would be you or her?

A. I did.

Q. In other words, when she came after you with the knife, and you hit her on the arm with the stick, it was not "you and her" any more; is that right?

A. That's right.

Q. It was all "her", and you were gone; is that it?

A. Yes, sir.

Q. Did you see Julia May Turner at the time?

A. No; I didn't see her.

Q. Did you come out the same room that you went in?

A. What do you mean?

Q. When you went in the house, she let you in the door; is that right?

A. Yes, sir.

Q. Did you go out through that same door? Did you go out the same door you went into the house by?

A. Yes, sir; I did.

[fol. 794] Q. You said that Julia May Turner, and Clara Watson, and Alice Johnson were in the habit of visiting Bar Rooms in New Sarpy; did you not?

A. Yes, sir.

Q. Did you see them there often?

A. I did.

Q. How often did you see them there?

A. I don't know how often, but I have seen them there.

Q. Well, about how often?

A. Usually on Saturday nights and Sundays when I'm there.

Q. Did you see Julia May Turner that night, at any bar room?

A. I didn't see her.

Q. Did you see Clara Watson at the Bar Room that evening or night?

A. No.

Q. So that was one of the Saturdays that you were there that you did not see those two; is that right?

A. Yes, sir.

Q. I understand that the next morning, while you were at Lucien Smith's house, Mr. Guidry came to the house and woke you up. Is that right?

A. He did.

Q. And he asked you if you had heard noises during the night?

A. Yes.

Q. And he looked at your clothes?

A. Yes.

Q. And he asked you for Lucien Smith?

A. He did.

[fol. 795] Q. You told him that you didn't know where Lucien Smith was; is that correct?

A. That's right; yes, sir.

Q. Then he left and came back later; is that correct?

A. He did.

Q. Did he tell you that two people had been killed that night?

A. He did.

Q. That is exactly the thing that he told you that morning; is that right?

A. Yes. He searched Lucien Smith's house at the time he was there.

Q. Then after Mr. Guidry left that morning you began to go from place to place, in New Sarpy; is that right?

A. I don't understand you.

Q. Well—After Mr. Guidry left the last time he came to Lucien Smith's house, you left; is that correct?

A. After he had gone; yes, sir.

Q. About what time was that?

A. I would say it was around eleven (11:00) o'clock, as close as I can guess.

Q. What time was it when you finally left New Sarpy for Hammond?

Q. That was in the afternoon.

Q. Why did you leave New Sarpy that morning right after the murders?

A. I had a letter from my wife to come over there.

Q. You had a letter from your common law wife to come there?

A. Yes, sir.

[fol. 796] Q. When did you get that letter?

A. I got the letter that Saturday.

Q. The same Saturday? June 15, 1946?

A. Yes, sir.

Q. When did you make up your mind to go?

A. That next day.

Q. The next morning?

A. Not that morning. I went after dinner.

Q. That was right after this trouble which you had with Alice Johnson; wasn't it?

A. Yes.

Q. And also, right after the murder of the Petrolias?

A. I don't know anything about the murder of Petrolias.

Q. Didn't Mr. Guidry tell you about it?

A. That's all I know, was what he told me.

Q. So you proceeded, after he told you about it, to go to Hammond; is that right?

A. I left after that.

Q. How long did you stay in Hammond?

A. Until they arrested me in Hammond.

Q. When was that?

A. In July.

Q. What date in July?

A. July the fifteenth.

Q. From June 15 to July 15th, you were in Hammond?

A. I was.

[fol. 797] Q. So those are four (4) Saturday nights that you did not spend in New Sarpy; aren't they?

A. There was more than those four (4) that I didn't spend in New Sarpy.

Q. But those were four (4) Saturdays in a row, that you did not spend in New Sarpy; is that right?

A. Yes, sir.

Q. Where did you stay when you went to Hammond?
A. At Sadie Glasper's.
Q. Who is she?
A. My wife's mother.
Q. What is your common law wife's name?
A. Evelyn Green.
Q. Is she a married woman?
A. Yes.
Q. Has she got a husband?
A. I don't know whether she has or not.
Q. Is her husband living?
A. I don't know that.
Q. Why did you stay at the house of your common law wife's mother?
A. That's where Evelyn Green lived.
Q. That's where your common law wife lived?
A. Yes, sir.
Q. Was she living there at the time you went there?
A. She was.
Q. Are you sure about that?
A. She was.
[fol. 798] Q. When I say "she", I mean the one you call your common law wife—Evelyn Green. Was she living with her mother?
A. Yes.
Q. How many daughters did Sadie Glasper have?
A. I only know two.
Q. When you were in the Service, did you go around there to see them?
A. That's where I got acquainted with her.
Q. Which one did you go over there to see?
A. Evelyn Green.
Q. Is that the one who was living with her mother when you went there on June 16th?
A. Yes, sir.
Q. Where were your clothes when you were living in New Sarpy or Good Hope?
A. I never lived in Good Hope.
Q. I mean St. Rose. Where were your clothes?
A. I had part at my grandmother's.
Q. Is that where you went to change your clothes?
A. Yes.

Q. Where was the other part?
A. I had some in New Sarpy.
Q. Is that at Lucien Smith's?
A. No, sir.
Q. Where, then?
A. Augustine James.
[fol. 799] Q. You divided your clothes up between the two places then; is that it?
A. Not necessarily.
Q. Well, you kept part at one place and part at another place?
A. Yes.
Q. When you left that morning, what did you take with you—what clothes?
A. I didn't take any clothes with me.
Q. You went with just what you had on?
A. Yes.
Q. Did you at any time come back to get any clothes?
A. I had clothes in Hammond already.
Q. What clothes did you have in Hammond?
A. My clothes.
Q. Whereabouts did you keep those clothes?
A. At Sadie Glasper's house.
Q. When was the last time you had gone over to see Sadie Glasper's daughter?
A. About three (3) weeks or a month before that.
Q. How long did you stay at that time?
A. A couple of weeks.
Q. How long before June 15, 1946 was that, that you made the trip to Hammond and stayed two (2) or three (3) weeks.
A. About a month before that.
Q. What clothes did you have at Sadie Glasper's house?
A. What do you mean, "what clothes"?
Q. Well, did you have that blue suit you have on now, or what clothes?
[fol. 800] A. No, I didn't have this blue suit there.
Q. Well, what clothes did you have there?
A. I had some of my Army uniforms there.
Q. Were you wearing your Army clothes at the time that this crime took place, on June 15, 1946?
A. I had a pair of Army breeches.

Q. What part of your Army clothes did you have at Sadie Glasper's house?

A. Khakis.

Q. How many shirts of trousers?

A. I don't know how many it was.

Q. Did you have one, or two, or more?

A. I had more than one.

Q. Well, how many did you have?

A. I don't know.

Q. Well, approximately how many?

A. I never did keep tab of how many pieces of clothes I had there.

Q. How many complete uniforms did you have when you came out of the Service?

A. Oh, I bought about a half a dozen different uniforms.

Q. How many uniforms did you have in St. Rose?

A. I didn't have any.

Q. How many did you have in New Sarpy?

A. I don't know.

Q. Did you have any there?

A. I had two (2) winter uniforms there.

[fol. 801] Q. Then you must have had four (4) in Hammond, if you say you had about six (6) altogether. Is that right?

A. I don't know how many I had in Hammond.

Q. Did you wear those uniforms while you were in Hammond?

A. I did.

Q. Did you wear the complete uniform?

A. No.

Q. What did you wear?

A. I would wear my pants sometimes, and different shirts.

Q. What kind of shirts did you wear?

A. Civilian shirts.

Q. Did you at any time wear an army shirt?

A. Sometimes.

Q. You say you were arrested by Mr. Guidry and Mr. Perilloux in Hammond; is that right?

A. Yes.

Q. Anybody else?

A. Mr. Sam Calcagna, and two (2) policemen from Hammond; which made five (5).

Q. Do you know who the two Hammond policemen were?

A. I know them when I see them.

Q. Do you know them by name?

A. No; I don't know their names.

Q. When you reached Hammond, did you have any money?

A. I did.

Q. How much did you have?

[fol. 802] A. I don't know exactly how much I had in my pocket.

Q. Don't you know about how much you had?

A. I had between eight ($8.00) and ten (10.00) dollars in my pocket.

Q. Did you have any jewelry?

A. I had my watch.

Q. What kind of watch did you have?

A. A Benrus.

Q. Where did you get that watch?

A. When I was in the Service I got it.

Q. Where did you get it?

A. In Coffeeville, Kansas.

Q. Who did you get it from?

A. I bought it.

Q. Who did you buy it from?

A. I bought it from the Government store there in Coffeeville Army Air Base.

Q. How much did you pay for it at the Government store?

A. Forty-five Dollars ($45.00).

Q. Did that include the band?

A. Yes, sir.

Q. You pawned a watch in Hammond, did you not?

A. I did.

Q. Is that the watch that you pawned?

A. My watch—yes, sir.

Q. Didn't you tell Sergeant Mack that you had pawned that watch and that the watch belonged to Joseph Petrolia and that you had taken it from the room that night when [fol. 803] you murdered them?

Q. No, sir; I certainly did not.

Q. Are you positive of that?

A. I am positive; yes, sir.

Q. What did you do with the lady's wrist watch?

A. I didn't have any lady's wrist watch.

Q. Didn't you make a statement that you had a lady's wrist watch and a man's wrist watch, and that you threw the lady's wrist watch away; and that the man's wrist watch you pawned in Hammond to Mr. Roberts?

A. I didn't tell him anything about a lady's wrist watch.

Q. Then they got that out of the air; is that right?

A. I don't know where they got it from.

Q. After you arrived with Mr. Guidry and the two officers from Hammond, and the two officers from St. Charles Parish, did you go to the Police Station in Hammond?

A. Yes.

Q. Is it not a fact that at that time you were offered a sandwich, and you turned it down?

A. I was not offered any sandwich at all.

Q. Is it not a fact that you were given something to drink—a root beer?

A. No; it is not.

Q. Is it not a fact that you stopped along the way, at Laplace, and that they offered to buy you a cup of coffee and something to eat, and you turned it down?

[fol. 804] A. Nobody ever offered me anything to eat or drink all night long.

Q. When was the last time you had eaten?

A. I had eaten supper that night they arrested me.

Q. What time did you eat supper?

A. About five (5:00) o'clock.

Q. What time did you go to bed?

A. Around eight (8:00) o'clock.

Q. What is your usual time for you to eat your supper?

A. I have no certain time to eat supper.

Q. Well, about between what time?

A. Between five (5:00) and six (6:00) o'clock.

Q. Did you have any usual time, while in Hammond, to go to bed?

A. No, sir.

Q. Is it unusual for you to eat your meal like you did that night, then go to bed and not eat until you eay your breakfast the next morning?

A. I don't understand you.

Q. Is it unusual for you to eat about five (5:00) or six (6:00) in the evening, and go to bed about eight (8:00), nine (9:00) or ten (10:00) o'clock, and not have anything to eat until next morning?

A. I don't know what you mean by "is it unusual".

Q. I mean, is it unusual for you to do without eating between supper and breakfast?

A. You mean do I skip dinner?

Q. Do you always eat supper and go to sleep and then eat your breakfast?

[fol. 805] A. I don't understand you.

Q. Do you know what supper is?

A. Yes.

Q. What time do you have supper?

A. About five (5:00) o'clock.

Q. You know what breakfast is; don't you?

A. Yes.

Q. What time *to* you have breakfast?

A. I eat breakfast according to what time I get up.

Q. Breakfast is a morning meal; isn't it?

A. Yes.

Q. And supper is an evening meal?

A. Yes.

Q. Well, it is the usual thing for you to do without eating between supper and breakfast the next morning, or do you always have to have something to eat between supper and breakfast?

A. Yes; if I can get it.

Q. What do you mean "if you can get it"? Do you ever have anything stopping you?

A. I mean I always get something to eat whenever I want it. I have always been doing it since I have been big enough to get it.

Q. Let's take this night you were arrested. You ate at five (5:00) o'clock, you said. Is that right?

A. Yes.

Q. What time did they arrest you? First, what time [fol. 806] did you go to bed that night?

A. About eight-thirty or so.

Q. Had you had anything to eat between five (5:00) and eight (8:00) o'clock?

A. No.

Q. You were asleep when they arrested you?

A. No; I was not asleep.

Q. Had you gone to bed?

A. Yes.

Q. If they had not come and woke you up, did you expect to have anything to eat between the time you ate at five (5:00) o'clock until you got up next morning?

A. Not unless I got up.

Q. Was it a hardship for you not to eat between five (5:00) o'clock of the fifteenth, and seven (7:00) o'clock the next morning?

A. It's a hardship for me to go without eating when I'm awake.

Q. But when you are sleeping, it is not?

A. No, sir.

Q. When you left here on the morning or afternoon of June 16th, 1946, had you been working? Did you have a job around St. Charles Parish?

A. Not any special job.

Q. Had you been working at Cities Service Company?

A. When they have such work to do.

Q. You just did extra work?

A. Yes, sir. I was not a regular workman there.

[fol. 807] Q. On June 15th you were tearing down a house for Eliska Jefferson, I believe you said; is that right?

A. I was finished the house that day.

Q. Had you worked for Cities Service Company the previous week?

A. Yes. I was laid off Wednesday.

Q. You had not been back since Wednesday; is that right?

A. Yes.

Q. Why were you laid off?

A. Because they weren't loading any more boats.

Q. You say when you arrived at the State Police Station at the Huey Long Bridge, that they brought you inside and sat you down?

A. Yes.

Q. Now you say you were beaten on. Is that right?

A. Yes, sir.

Q. Who beat on you?

A. Well, I know Mr. Mongrue did—he's a deputy; and there were some uniformed policemen, but I didn't know them.

Q. What kind of chair were you sitting in?

A. A wooden chair.

Q. Was there any back to it?

A. It's a wooden stool.

Q. You said you were sitting down in a chair, before. Now was it a stool or a chair?

A. A wooden stool.

Q. Then when you told Mr. Laurent that they sat you down in a "chair", you were wrong then. Is that correct?

[fol. 808] Mr. Laurent:

I object that he is not quoting the accused correctly. I object to the question on the ground that he is not quoting the accused correctly.

By the Court:

That is not a legal objection. It is overruled.

Mr. Langridge:

Q. You testified that you were beaten over the back and head and stomach; is that correct?

A. Yes, sir.

Q. While you sere sitting down, you were beaten on the stomach?

A. I was punched in the stomach.

Q. You were punched in the stomach while you were sitting down on the stool?

A. Yes, sir.

Q. When they took you, or when you were taken to the Parish Prison in New Orleans from the State Police Office at the Huey Long Bridge, what time was that?

A. We got to the Parish Prison a little after breakfast.

Q. Where did you have breakfast?

A. At the Parish Prison.

Q. About what time was that?

A. Well, we got there about seven (7:00) o'clock.

Q. So you had breakfast at seven (7:00) o'clock then; didn't you?

[fol. 809] A. No. They sent in the kitchen and got me something to eat after I was there. I didn't have breakfast at seven (7:00) o'clock when we got there.

Q. Well, how long after you arrived there did you get breakfast?

A. About an hour afterwards.

Q. So you had your supper at five (5:00) o'clock that evening before, and you had breakfast at eight (8:00) o'clock next morning; didn't you?

A. Yes.

Q. I understood you to say that at the Parish Prison Lieutenant Moore said that they were going to "spring you through the trap-door if you didn't answer their questions and didn't sign the confession". Is that what you said?

A. Yes.

Q. Was there any rope around there at all?

A. I didn't see any rope.

Q. But you were scared that they were going to spring you through the trap-door, and you did not see any rope?

A. But my chair was sitting right on the trap door.

Q. You didn't have any rope around your neck; did you?

A. No, sir.

Q. And you say they said they were going to hang you by dropping you through the trap-door?

A. Yes.

Q. You were scared they would hang you without a rope? How could they hang you without a rope.

A. I just took them at their word. They didn't say they would hang me without a rope. They told me they would hang me.

[fol. 810] Q. Where is the death cell in the Parish Prison?

A. On the fifth floor.

Q. How do you know it's the death cell?

A. That's what the sheriffs and Warden that work there said it is.

Q. What was the occasion for their saying that? Why did they tell you that?

A. They were just talking to me generally; and that's what they called it.

Q. That's what who called it?

A. Everybody that was there.

Q. Who is "everybody who was there"?

A. The Sheriffs and the Warden, and the prisoners who were in there.

Q. Everyone of them said it was a "death cell"?

A. The ones I asked about it did.

Q. And that's how you know it was a death cell?

A. Yes.

Q. You heard Julia May Turner and Alice Johnson testify in this case; didn't you?

A. I did.

Q. You heard them both testify that you went into the house where they both were?

A. I did.

Q. And that you first struck Julia May Turner across the head and face and she woke up and hollered, and you then went into the room and struck Alice Johnson across the wrist as she was rising up from the bed. Do you deny [fol. 811] that to be the truth?

A. I do.

Q. How long have you known Julia May Turner?

A. Since she was a kid.

Q. Do you know of any reason why she should say that you did that?

A. I do not.

Q. You don't know any reason why she would come in here and testify like that if it was not true; do you?

A. I don't know what she would do.

Q. Do you know of any reason why Alice Johnson would make that statement if it was not true?

A. No, sir; I don't know any particular reason why she would.

Q. Do you know of any Clara Watson would testify that you were in that house and struck both those girls? Do you know of any reason why she should come in here and testify against you?

A. I do not.

Q. You can't think of any reason for that at all?

A. No, sir.

Q. You admit that that is your signature to this confession marked "State 'Q' ", which was offered in evidence?

A. Yes, sir.

Q. Do you remember signing that?

A. Yes, sir.

Q. Do you remember having read this confession or

having this confession read back to you by Lieutenant [fol. 812] Moore at the time before you signed it?

A. No, sir. He read it after I had signed it.

Q. Are you sure of that?

A. Yes, sir.

A. I understood you to testify that when they came into the Parish Prison—when Lieutenant Moore, Sergeant Mack and Mr. Prejean came into the Parish Prison—that Mr. Prejean had a piece of paper there; that he took it out of his pocket. Did you not testify to that?

A. No, sir. He had it in a book about that long(indicating size with hands). It was the same confession that he typed out up at the Huey Long Bridge.

Q. You say it was the confession that he had at the Huey Long Bridge?

A. It was.

Q. Do I understand you to tesify that he wrote something on the bottom of it?

A. I don't get you.

Q. Did I understand you to testify that when he had this confession he added something to it? Didn't you say that?

A. I said Lieutenant Moore took the confession which Mr. Prejean had, and copied what he wanted off of there, and then he put the addition on to it himself.

Q. Then he asked you to sign it; is that right?

A. Yes.

Q. Did you sign it?

Q. I told him I would not sign it, and he said they would hang me, that they would drop me through that trap-door [fol. 813] in the Execution Room if I didn't sign it. Then I *f*told them if they wouldn't hang me, I would sign it. So, after they didn't hang me, I signed it.

Q. Of course if they had hanged you you could not have signed it; could you?

A. No, sir.

Q. On the morning of June sixteenth, 1946, when Mr. Guidry came to Lucien Smith's house, where you were, did you have your wrist watch on your arm?

A. No, sir. I didn't have it on my arm. It was in my watch pocket. He saw it in my pocket.

Q. I didn't ask you about what he saw. Now, he came there a second time; didn't he?

A. He did.

Q. Now, the first time he came, did you have it on your arm?

A. No; it was in my watch pocket.

Q. Did you have it on your arm when he came the second time?

A. No, sir.

Q. When you were brought back from the Parish Prison to the Hahnville Jail—between that day that you were brought back and the day that you were brought here for trial and you got sick and this case had to be continued to another time, did you ever complain to anybody about being sick?

A. I did.

Q. Who did you complain to?

A. To the jailer here.

Q. What Jailer is that?

[fol. 814] A. Mr. Hebert.

Q. Did the doctor come to visit you?

A. He did, after the trial.

Q. I mean before the trial. Did he come to visit you before the trial?

A. No; but Mr. Hebert brought me some kind of medicine there.

Q. I understood you to testify that the mother of your common-law wife wrote you about a job in Hammond. Is that right?

A. Yes, sir.

Q. Is that why you went up there?

A. Yes, sir.

Q. Did you get the job when you first went up there?

A. Yes; I did.

Q. Who did you work for?

A. Independent Lumber Company.

Q. How long did you work for them?

A. As long as I was there.

Q. Did you work every day?

A. Yes; except when it was raining, and on Sundays.

Q. Well, why did you have to pawn this watch for eight dollars ($8.00), if you were working every day?

A. Because I had got broke gambling at the bar room.

Q. Is that why you pawned the watch?

A. Yes, sir.

Q. When you left to go to Hammond to get this job, did the Cities Service Company owe you any money?

A. Yes, sir. I got a check for my income tax since then.

[fol. 815] Q. Did they owe you any money for services?

A. No, sir.

Q. You say you got a check for your withholding tax on your income?

A. Yes.

Q. When did you get that check?

A. While I was here.

Q. While you were in jail here?

A. Yes, sir.

Q. Are you positive that you did not get a check for services that you had rendered before you left to go to Hammond? Did you get such a check afterwards?

A. The only check I got is the one that Mr. Prejean brought to me for my income tax.

Q. That's all.

Rebecca Ward (colored), was called as a witness on behalf of the Accused; and, being first duly sworn, testified as follows :

By Mr. Laurent:

Q. Rebecca, do you know Milton Harold Wilson?

A. Yes, sir; I know him.

Q. Did you have occasion to see him often?

A. Yes, sir. He lived right there in the place where I [fol. 816] was living there.

Q. Do you know whether or not Milton Harold Wilson had a watch?

A. Yes, sir. When he came from the Army, he had a gold wrist watch with one of them twisted chain band things that you pull on like that (indicating by twisting her hand around her wrist).

Q. (Showing watch previously testified about) Does that look like the watch he had?

A. It's just like it. I can't say, because I don't know the serial numbers because I can't read; but that looks like the watch he had.

Q. That's all.

Cross examination

By Mr. Langridge:

Q. Where do you live?

A. New Sarpy, Louisiana.

Q. How long have you known Milton Harold Wilson?

A. Oh, he was a little boy when I came around here.

Q. How well do you know him since he has grown up?

A. I used to let him come to my house and clean up my house for me. I would give him the key to the house, when I was working.

Q. When was the last time you did that?

A. Oh, Lord—I couldn't tell you that. I don't remember that.

[fol. 817] Q. You can't tell us about how long it was?

A. No, sir. That was a long time. Not since he came back from the Army.

Q. He has not been to your house since he came from the Army?

A. When he came from the Army he came to my house; yes.

Q. Do you remember about the time this murder of Mr. and Mrs. Joseph Petrolia took place?

A. I was working for Mrs. McGowen, and I didn't know about it until twelve (12:00) o'clock.

Q. But you do remember hearing about it when it happened?

A. Well, I'll tell you, I didn't hear that much about it, because I work and go home. I don't stay around.

Q. All I want to find out is how long was it before this thing happened, that you saw Milton Harold Wilson?

A. I didn't see him for quite a while, because he was in St. Rose.

Q. How long would you say it was?

A. Mister, I don't want to tell you a story. I just don't know.

Q. Had you seen him the day before?

A. No, sir.

Q. Had you seen him a week before?

A. No, sir.

Q. Had you seen him a month before?

A. I don't know that. Like I said, mister; I don't want to catch myself in a story—I just couldn't tell you that.

Q. Where was he the last time you saw him?

A. At the bar room.

[fol. 818] Q. At the bar room? Was he drinking beer?

A. I don't know what he was drinking. I just passed by there, and I hollered at him. When I come from my work, I have to pass by there, and that's when I saw him.

Q. How far was he away from you when you saw him and hollered at him?

A. I couldn't say that either.

Q. Well, was it from here to the back wall of the court room, where you were?

A. It was from the bar room to the road.

By the Court:

Q. Pick a spot in the court room. From where you are sitting, how far is it to the bar room. Just point it out by something in the court room. That's all he wants to know.

A. I couldn't—I couldn't pick a spot, because I might not be right. I don't know.

Mr. Langridge:

Q. We don't expect you to tell us exactly. We want to know just about how far it is.

A. I don't know.

Q. How long was it before this happened, that you saw him?

A. I already told you it was a good while.

Q. Was it a month, or two (2) months, or about how long?

A. I don't know.

[fols. 819-826] Q. Did you see this watch on his arm that day?

A. Yes, sir. I wouldn't tell you a story—that's what I saw; I saw the watch.

Q. You were passing by the store on the outside, and you could see the watch?

A. No, sir, I told you it was at my house.

Q. I mean when he was at the beer garden—did you see the watch on his arm then?

A. How could I see it all the way from the road to the beer garden.

Q. You say he was at your house with a watch?

A. Yes, sir.

Q. Describe the watch you saw him with.

A. It was a gold wrist watch with a slip chain I guess you call it.

Q. You say a "slip chain"?

A. Just like that one (indicating by pointing to watch band).

Q. Do you know the make of that watch?

A. No, sir. I told you before, I can't read.

Q. Well, when Mr. Laurent brought out this watch and showed it to you, you said it was the one, or one that looks like that; didn't you?

A. I said if it was not that one, it was just like it.

Q. But you can't swear it was; can you?

A. I couldn't swear, because I don't know the number of it.

[fol. 827] ARCHIE BLANKENSHIP (colored), was called as a witness on behalf of the Accused; and, being first duly sworn, testified as follows:

By Mr. Laurent:

Q. Do you know Milton Harold Wilson?

A. Yes, sir.

[fol. 828] Q. Do you know him very well?

A. Yes, sir.

Q. Have you been out with him?

A. Yes, sir.

Q. Would you know if he had a wrist watch when he came out of the Army?

A. He did.

Q. (Showing watch) Will you look at this watch—which has been identified as "State 'O'" and—— (interrupted by)

Mr. Langridge:

I object to that being shown the witness now. I ask that he first have him describe the watch without showing it to him—that the witness describe the watch he saw on the accused.

Mr. Laurent:

Q. All right. What kind of watch did you see Milton Harold Wilson with?

A. When he came out of the Army, he had a wrist watch. I don't know the name of it, but he had a wrist watch with a gold band on it.

Q. What sort of band did he have on it?

A. He had a band that had ridges in it about that wide (indicating about an eighth of an inch wide)—it was not broad ridges; it was narrow ridges.

Q. Do you know it it was a dial that you could see at night?

[fols. 829-831] A. Well, I'll tell you—We were all around the bar room talking, and I didn't notice all that; I just noticed when he came in that he had a wrist watch on.

Q. (Showing a watch) I show you a watch which has been marked "State 'O' " for identification, and ask you if that is the watch that he had on his arm?

A. It looks something like it. I could not swear that that was the exact watch, but it was one like it.

Q. That's all.

[fol. 832] TESTIMONY OF LUCIEN SMITH

Q. When he came out of the Army and you saw this watch, did Milton Harold Wilson sleep at your house any more?

A. He had slept at my house the Tuesday before this trouble happened.

Q. When was the last time before that, that he had slept at your house?

A. None. He had come to visit, but he did not sleep there.

Q. When was the last time he came to visit you before this Tuesday before the trouble?

A. He was working at the last end of my lane, for Eliska Johnson; but he finished tearing down a house for her.

Q. How many times would you say you saw Milton Harold Wilson after the time you saw him when he first came out of the Army?

A. I saw him lots of times, because we worked at the Cities Service Company together.

Q. On all these other occasions when you saw him, did he have that watch then?

A. No, sir.

Q. The only time you ever saw him with the watch was when he first came out of the Army; is that right?

A. That's right.

Q. Can you tell us about how many times after that you saw him?

[fol. 833] A. We used to work together. Most every morning I would see him at the Cities Service, before they laid me off.

Q. Did you see him at night?

A. When we worked on the night shift together, I would see him. Sometimes we worked at night, and sometimes in the day time.

Q. So you only saw him with this watch the one time, when he first came out of the Army?

A. That's right.

Q. Could you tell me about what month and year it was that he came out of the Army?

A. No, sir; not to save my life, I couldn't.

Q. This crime happened in June, 1946. Could you tell me about how long before that it was that he came out of the Army?

A. I really couldn't remember just exactly how long.

Q. Would you say it was at least six (6) months?

A. It may be six (6) months, or may be more.

Q. During that six (6) months, you had seen him on numerous occasions; is that right?

A. What you mean by that?

Q. You had seen him a great number of times?

A. Oh, yes sir.

Q. And you only saw that watch—the only time you saw that watch is when he first came out of the Army, more

than six (6) months before this killing happened. Is that correct?

A. Yes, sir; that's the first time I saw it.

[fols. 834-835] Q. On the night of June 15, 1946, did you see Milton Harold Wilson?

A. Yes, sir. I saw him that day.

Q. Did he come to your house that night to sleep?

A. Between twelve (12:00) and one (1:00) o'clock. I didn't have a watch or clock, but I judge it .o be about that time from how long I was sleeping.

Q. Did you see him next morning when you got up?

A. Yes; he was in the front bed room.

Q. Did you see him with the watch at that time?

A. No, sir.

Q. Did he have any watch on his arm then?

A. No, sir. He had a short sleeve white polo shirt and khaki pants and brown shoes.

Q. That's all.

[fol. 836] TESTIMONY OF AUGUSTINE JAMES

Q. Do you remember when he came out of the Army?

A. I think it was in December, 1945; I believe that's when it was.

Q. Are you sure?

A. Am I sure that's the time he came out? To my best remembrance, it was December, 1945; yes, sir.

Q. When he came out, did he have the watch you are speaking of?

A. He had the watch when he came out of the Service; yes, sir.

[fols. 837-855] Q. Do you remember the killing of Mr. and Mrs. Joseph Petrolia on June 15, 1946?

A. Yes, sir.

Q. When was the last time Wilson had been at your house before that date?

A. I guess about the week before that. Like I said, he came whenever he felt like it.

Q. Was he there two (2) weeks before the killing?

A. Oh, he had come to my house maybe the week before; and at the time it happened, he was there the Saturday it happened.

Q. Was he there the Saturday before?

A. I disremember whether he was or not.

Q. On this occasion the week before, did he have the watch?

A. I don't remember seeing whether he did or not.

Q. Did you see him with the watch then?

A. He has been having the watch all the time; but I don't remember that particular time. I used to see him with it; but I don't remember seeing it on that particular time.

Q. When was the last time you saw that watch on him?

A. I could say it was about a month; because he was dressed up when he came over home, and he had it on his arm.

Q. When he stayed with you, did he go to work from there?

A. Yes, sir.

Q. Did he ever stay with you more than one day at a time?

A. Oh, I practically raised him.

[fol. 856] TESTIMONY OF LUCIEN SMITH

* * * * * * *

Q. On the night of June 15th, 1946, did he sleep at your house?

A. That Saturday night?

Q. Yes.

A. Between twelve (12:00) and one (1:00) o'clock he came there. I didn't have any watch or clock to know the exact time; but like I said before, I judged it to be about that time, judging from how long I had been sleeping.

Q. Did you open the door for him?

A. I opened the door myself, when he woke me up.

Q. Do you know whether or not he went to bed?

A. Yes, sir; he went to bed.

Q. Who locked the door?

A. I did—that is, I didn't have a lock on the inside; I have a hook on it. When I closed it, I hooked it myself.

Q. The way you locked the door, could he have gotten out of the room?

A. The way the hook was on there, you mean?

Q. Yes.

A. Yes, sir; it could have been opened.

Q. Could you get out from the inside?

A. You could get out from the inside, but you could not get in from the outside.

Q. Would it be possible for him to get out of the room he was in, and get outside?

A. If he would unlock the door he could; you see.

Q. Do you know what time he came in?

A. Between twelve and one midnight. I didn't have a watch or clock. Like I said, I just judged it was that time. [fol. 857] Q. When you left in the morning, was he still in bed?

A. Yes; he was sleeping.

Q. Were you there when the Deputy Sheriff came?

A. No, sir. I was at work at Mr. Albert Brown's.

Q. Had you gone out with him that night?

A. No, sir.

Q. Do you know Julia May Turner?

A. Yes, sir.

Q. Do you know Alice Johnson?

A. Yes, sir.

Q. Do you know Clara Watson?

A. Yes, sir.

Q. Are they in the habit of going at the bar rooms?

By the Court:

Q. Answer that only if you know of your own knowledge; not from what anybody might have told you. Only what you know yourself.

A. I have seen them in there; yes, sir.

Mr. Laurent:

Q. Are they in the habit of drinking with the boys at the rooms?

A. Yes, sir.

Q. Have you seen them drinking with Milton Harold Wilson?

By Mr. Langridge:

I object to that as being irrelevant and immaterial. Whether they drink or not they are not charged in this

case; and I can't see where that testimony would be relevant here.

[fols. 858-932] Mr. Laurent:

If Your Honor please, these three witnesses—Julia May Turner, Alice Johnson and Clara Watson—testified that they never went in bar rooms; and I have a right to show whether they are telling the truth about that or anything else they testified to in this case.

By the Court:

Proceed.

A. No, sir; I didn't see them drink with Wilson.

Q. But you do know that they were in the habit of going to the bar rooms and drinking with the boys there; is that right?

A. Yes, sir; that's right.

Q. Was it the custom for them to go to these bar rooms, especially on Saturday nights?

A. Saturday night or any other night they felt like.

By the Court:

Q. Do you know that of your own knowledge?

A. Yes, sir. I know it, because I have seen it.

Q. That's all.

[fol. 933] DEFENDANT'S EXHIBIT No. 1

Charity Hospital of Louisiana
At New Orleans

Dr. O. P. Daly, Director

Office of Secretary-Treasurer
Certification of Patient's Record

Date of Issue: 1-14-47

To Whom it May Concern:

Pursuant to Act No. 90 of 1938, I hereby certify that the attached is a correct extract from the Charity Hospital records, as follows:

Accident Room Service No. —, Unit Record No. T-46-228381, in the case of Milton Wilson consisting in all of one sheets. $1.00.

Fred W. Matthews, Secretary-Treasurer.

/jcp

[fols. 934-935] Charity Hospital of Louisiana
At New Orleans

X-Ray Department

Date 27 Nov. 1946.

U. H. No. L46-228381; Name Wilson, Milton.
Service GW; Ward C713; Bed 1; Sex M; Age 33; Color C.

Clinical Diagnosis Bladder & urinary.
State briefly the chief objective and subjective signs and symptoms Sematuria 1 week.
Duration of present illness 2; Radiographed before No; If so when —.
State examination desired U B Pyelogram.

Approved Burton Resident.

No. 972-805; Positions used —; Date 11-27-46.

Report

11-27-46 KUB with catheters in place and single film retrograde pyelogram shows no definite evidence of urinary calculi. The kidney shadows are indistinct. The calices, pelves, and ureters filled with dye in a normal manner.
bp

Leon J. Menville, M. D., Director, Per J. O. Ellis, M. D.

[fols. 936-937] Defendant's Exhibit No. 2

Troop B Headquarters
Huey Long Bridge
July 16, 1946
2:40 A. M. Central Standard Time

My name is Milton Harold Wilson. I am 31 years of age. On the night of June 15, 1946, I started drinking with Eliska Jefferson at her home in New Sarpy at about 6:30 or 7:00 and stayed there until a few minutes past 7:00 o'clock. From there I went to a barroom operated by James Jenkins at New Sarpy. I started drinking there with Allen Jackson, Alberta Green, George Washington, and stayed there until about 10:00 o'clock. From there we went to Sam Johnson's bar across the railroad tracks at New Sarpy. We took a few drinks and left there at 10:30 o'clock. We went back to James Jenkins place and drank there until 12:00 midnight. Mark jones purchased a bottle of whiskey from James Jenkins and he and I went to Julia Watson's home about a block from Jenkins' place. On the way to Julia Watson's home we passed a car which was parked on the road. Four or five negro boys whose names I do not know called to me and offered me a drink. They then offered to sell me "weed" cigarette which I bought for 75¢, and I smoked a part of it at that time. I then proceeded to Julia Watson's house and went in through the back door. I had a fight with Alice Watson and when she hollered, Julia and her mother Clara Watson came into the room and I picked up a stick which was in the house and hit Alice Watson, and ran from the house.

I want back to Sam Johnson's place and bought a quart

of wine which I drank and then finished smoking the weed. Correction: I did not drink all of the wine, but drink a part and went out and finished smoking the weed. Then I went to Lucien Smith's house, put up the wine which was left and walked out of the house. I do not know exactly what time that was. I intended to fuck some woman, no matter who.

I walked along the road towards the front of New Sarpy and walked through the front door of the first house from Lucien Smith's. I was carrying a stick which I had picked up before going into the house. I saw two people lying in the bed and struck them both. I started walking around the bed and saw two wrist watches on a dresser and I put them in my pocket. I then went to the bed and fooled with the lady. I then heard a car coming on the road and I ran out through the back door. There was a light on in the middle room all the time I was in the house. I threw the stick away and ran through an open lot to Luc*ein* Smith's house, finished drinking my wine and went to bed. It was about 3:00 o'clock at that time.

At about 8:30 A. M. Sunday Morning, June 16, 1946, Mr. Guedry, Deputy Sheriff, came into Lucien Smith's house and woke me up. He asked me if I had heard any noise during the night and looked at my clothes and asked me for Lucien. I told him I did not know where Lucien was. Mr. Guedry left and came back later. He was still looking for Lucien and he told me that two people next door had been killed. I got scared and got up and dressed. I went out and looked at the ladies' wrist watch and not thinking it was much I threw it in a lot across the road. I went to James Jenkins' place and took one drink there. From there I went to Ed Madison's house and talked to him awhile and then went on the Is*al*nd and talked to Beatrice Turley for about a half hour. I then went to Good Hope by walking through the field. A white man whom I do not know picked me up at Good Hope and took me to LaPlace where I went to the Airline Club.. This was a little after 12 o'clock noon. I stayed in LaPlace until Monday morning. Some time during the morning a white man driving a lumber truck picked me up and took me to Natalbany, La. On the way he told me there was a sawmill at Natalbany where I might find work. We got to Natalbany a little before noon. I went to this sawmill

and got a job and went to work the next day, for the T. H. Davidge Lumber Co. I lived with Sadie Glasper in Hammond.

I certify that I have made this statement of my own free will and no threats of violence were made to prevent this statement from being free and voluntary.

Signed: Milton H. Wilson.

Witnesses: Milton J. Mongrue, Edw. J. Prejean, Leon C. Vial, Jr., Sheriff, Sgt. N. L. Mack, E. M. Guidry, Sgt. Tom Bradley.

[fol. 938] STATE'S EXHIBIT "Q"

Parish Prison,
New Orleans, La.
18 - July - '46.

The following is a confession from Milton Harold Wilson, negro, male, age 31, to the murder of a white man and the murder and rape of a white woman in New Sarpy, La. on the night of June 15, 1946 or early morning of June 16, 1946.

"My name is Milton Harold Wilson. I am 31 years of age. I make this confession to the murder of a white man and the murder and rape of a white woman in New Sarpy, La. on the night of June 15, 1946 or early morning of June 16, 1946 of my own free will and under no form of duress or threats or promises of leniency from the officers taking this confession.

On the night of June 15, 1946 I started drinking with Eliska Jefferson, negro, female, at her home in New Sarpy at about 6:30 or 7:00 P. M. and stayed there until a few minutes past 7:00 P. M. From there I went to a barroom operated by James Jenkins at New Sarpy. I started drinking there with Allen Jackson, negro, male, Alberta Green, negro, female, and George Washington, negro, male, and stayed there until about 10:00 P. M. From there the four of us went to Sam Johnson's barroom across the railroad tracks. We took a few drinks there and left around 10:30 P. M. We all then went back to James Jenkin's place and drank there until 12:00 P. M. I met Mark Jones at Jenkin's place and he, Jones, bought a bottle of whisky from

Jenkins. Mark Jones and I drank some of the whisky in Jenkins' barroom and then we both left the barroom and walked to Julia Watson's house about a block away. On the way to Julia Watson's house we passed a grey Ford sedan which was parked on the road. Four or five negroes whose names I don't know called to me from the car. I walked over to this car and Mark Jones walked on to Julia Watson's house. The negroes in the parked car offered me a drink and I took a drink from their bottle. They told me they were from Holly Grove, and then offered to sell me a "weed" cigarette which I bought for seventy-five cents. I lit the "weed" cigarette right there and took several draws on it while I was standing alongside of the car. I then put it out, put it in my pocket, and started to walk to Julia Watson's house. I went in Julia's house through the back door. I went to Julia's house so that I could see Alice Watson, sister to Julia, whom I wanted to fuck. Alice Watson and I got into an argument about some money and when she hollered Julia and her mother, Clara Watson, came into the room. I had given Alice Watson some money earlier that day and she, Alice, was supposed to give me some pussy when I came around that night. I picked up a stick, which was in the room, and hit Alice Watson with the stick and ran from the house. Mark Jones was standing outside when I ran out of the house. He stayed there and did not leave with me. I went back to Sam Johnson's place and bought a quart of wine. I drank part of the wine outside and then lit the "weed" cigarette and finished smoking it. Then I went to Lucien Smith's house, where I sleep on the weekend when I am in New Sarpy. I put up the wine that was left in the bottle, and walked out of Lucien Smith's house. I don't know exactly what time it was. I wanted to fuck somebody and I went out with the idea of finding someone to fuck no matter who.

I walked along the road towards the front of New Sarpy. Just a short distance from Lucien Smith's house I picked up a long stick, about 3 or 4 feet, which was lying on the side of the road. I think I figured that I would use this stick on anyone that tried to stop me from getting some pussy. I came to the first house along the road from

Lucien Smith's house on the same side of the road. I walked through the front door of this house which door was not locked. I was carrying the stick in my hand. I saw two people lying in the bed in the front room of this house. There was a light burning in the middle room. I raised the stick that I was carrying and hit both of the people laying in the bed. I don't know which one I hit first. None of these people made any noise or moved at the time I hit them. I walked to the foot of the bed intending to go around to the side that the woman was on. I saw two wrist watches on a dresser or wash stand by the foot of the bed. Both watches were in a box. I took the watches out of the box and put them in my pocket. I left the box on the dresser. I then went to the side of the bed wher- the woman was lying. She was laying on her back. I could [fol. 939] see that she was a white woman. I raised up the clothes that she was wearing, got on top of her, and fucked her. She was unconscious and did not make any move. I did not take off my pants to fuck this white lady, but opened then in the front and got my prick out through the opening. Just as I shot off in this white lady I saw the lights of a car through the front door coming on the road outside. I jumped out of the bed and pulled the white lady out of the bed with me. I don't know whether I had the white lady by the arm or the leg. I let loose the white lady after I had pulled her out of the bed and she fell on the floor by the foot of the bed. I had left the stick that I used on both of these people standing alongside of the dresser or wash stand from which I had taken the watches. I picked up this stick, as I ran out of this bedroom towards the back of the house. The back screed door was hooked. I ran into the back screed door, and think that I busted the hook off that was holding the door. As I stepped from the kitchen onto the back steps I threw the stick that I was carrying away. I ran through the little back yard in the rear of the white people's house and then across the field to Lucien Smith's house. I drank the rest of the wine in the bottle that I had left in Smith's house. I took the two wrist watches that I had taken from the white people's house out of my pocket and hid them in a vase on the mantlepiece. I took off my pants, and "T" shirt (which

was all I wore) and got into the bed in the front room of Lucien Smith's house. I think it was some thime around three o'clock in the morning at this time.

At about 8:30 A. M. on Sunday, June 16, 1946 Mr. Guidry, Deputy Sheriff, came into Lucien Smith's house and woke me up. He asked me if I had heard any noise during the night, looked at my clothes, and asked me for Lucien. I told him that I did not know where Lucien was. Mr. Guidry left but came back later looking for Lucien. He told me that two people next door had been killed. I got scared, got up and dressed. I got the wrist watches out of the vase on the mantlepiece. I went out the front door onto the road. I looked at the watches and saw that one of them was a ladies watch. I did not think it was worth much and threw it in a lot across the road from Lucien's house. I saw a lot of people standing in the road in the front of the house where I had killed the two white people. I went to James Jenkin's place by the tracks and took a drink there. From there I went to Ed Madison's house and talked to him awhile, and then went on the Island and talked to Beatrice Turley for about a half hour. I then walked through a field to Good Hope, La. A white man, whom I dod not know picked me up at Goodhope and took me to Laplace, La. where I went to the Airline Club. This was a little after 12 o'clock noon. I stayed in Laplace until Monday morning. Sometime during the morning a white man, driving a lumber truck, picked me up and took me to Natalbany, La. On the way he told me that there was a sawmill at Natalbany where I could get work. We got to Natalbany a little before noon. I got a job in the T. H. Davidge Lumber Co. sawmill and went to work the next day. On Sunday, June 30, 1946 I pawned the man's wristwatch, that I had taken in New Sarpy, with the fellow that runs the "Pine Club" in Hammond, La. for eight dollars ($8.00).

This is a true confession to the murder of the white man and the murder and rape of the white lady in New Sarpy, La. on July 16, 1946 and is given of my own free will in the presence of the witnesses listed below without any threats or promises of leniency. I have read this confession consisting of this and another page, initialed by me,

and swear that it is true and voluntarily given to the investigating officer.

Signed: Milton Harold Wilson.

Confession taken and witnessed by:
Lt. Francis T. Moore, Sgt. N. L. Mack, Edw. J. Prejean, Deputy.

[fol. 940] IN SUPREME COURT OF LOUISIANA

No. 39,761

STATE OF LOUISIANA

v.

MILTON HAROLD WILSON

On Appeal from the Twenty-Fourth Judicial District Court in and for the Parish of St. Charles. Honorable Leo W. McCune, Judge.

OPINION—April 24, 1950

PONDER, J.

The defendant was convicted of murder and sentenced to be electrocuted. He has appealed from the conviction and sentence.

We are presented on this appeal with fifteen bills of exceptions taken to the ruling of the trial judge by counsel for the defense.

Bill of exception No. 1 was taken to the refusal of the trial judge to grant the defendant additional time to subpoena ten additional witnesses to be heard on the trial of a motion for a change of venue. Counsel for the defendant subpoenaed fifty witnesses to appear at the trial of the motion. Forty of the witnesses were present when their names were called by the sheriff and ten were absent. The returns of the sheriff showed that the ten absent witnesses were either out of the parish or could not be found. The trial court would not grant additional time to summon witnesses but ordered instanter subpoenas to issue for the absent witnesses.

Counsel contends that the defendant was entitled to these additional witnesses as a matter of right. He cites au-

thorities to the effect that a defendant is entitled to additional witnesses when they are essential to his defense.

We find no fault with the authorities cited but the trial of a case cannot be delayed when the defendant is afforded the testimony of forty witnesses at the hearing of a mo- [fol. 941] tion of this nature and there is no showing that the defendant could have procured witnesses who would have established his contention that he could not obtain a fair trial. In the absence of any showing that the defendant has been injured by this ruling of the court the exception is without merit.

Bill of exception No. 2 was taken to the overruling of a motion for a change of venue. Counsel for the defendant states that the witnesses heard before a recess of court stated that the accused could not get a fair trial in the Parish of St. Charles and that those testifying after the recess of court stated that the accused could get a fair trial in that parish. He contends that there was prejudice, collusion and coercion of the witnesses who testified after the recess of court.

There is nothing in the record to support the contention. The three witnesses who testified prior to the recess of the court did not testify that the accused could not get a fair trial in the parish. Two of them testified that he could get a fair trial and the other witness did not know whether the accused could get a fair trial or not.

Bill of exception No. 3 was taken to the overruling of an objection to the reading of the purported confession by the district attorney to the jury in his opening statement.

The trial judge in his per curiam states that he instructed the jury that the opening statement of the district attorney could not be considered as evidence and that he is merely detailing what he expects to prove. Under the provisions of Article 333 of the Code of Criminal Procedure it is the duty of the district attorney in his opening statement to explain the nature of the charge and the evidence by which he expects to establish it. A conviction and sentence will not be set aside where the district attorney reads a confession to the jury in his opening statement if the confession is subsequently admitted in evidence. State v. Cannon, 184 La. 518, 166 So. 485.

Bill of exception No. 4 was taken to the refusal of the

trial judge to sustain an exception to a question propounded by the district attorney to the coroner. Counsel objected to the question on the ground that it calls for an assumption of certain facts which the coroner could not possibly know because he was not present at the time of the homicide and that his answer presumes that a blow was struck [fol. 942] while the deceased was in bed. The question propounded was, "Will you explain the lack of blood between the pillow and the foot of the bed where the body of Mrs. Petrolia was lying?" In answer to the question, the coroner stated, "Well, I think, gentlemen of the jury, that it is very easily explained." "It is a medical fact." "This individual, Mrs. Petrolia, was struck a blow while lying in bed . . ." Counsel for the defendant interrupted the witness and objected to the testimony on the grounds heretofore stated. We see no merit in this bill because the coroner was testifying as an expert witness based on the facts which he had discovered by his inspection of the premises and the deceased.

Bill of exception No. 5 was taken to the admission of twelve objects found at the scene of the homicide. Counsel contends that these exhibits should have been introduced separately and not as a group. The various objects had been separately identified by the witnesses who had testified in the case. There is no merit in this bill.

Bill of exception No. 6 was taken to the introduction of certain exhibits in evidence. These exhibits were a stick with blood on it found on adjoining premises; hair from the head of the deceased and her husband, who had been killed at the same time, used in making a microscopic examination in comparison with the hair found on the stick, etc.; a specimen of hair found on the stick and a specimen of hair found from the deceased's bed sheet. Counsel contends that these exhibits were not admissible in evidence because the chemist from the F. B. I. could not identify the hair as belonging to any particular person and could not identify the blood stains as blood coming from any particular person. The testimony of this laboratory expert was to the effect that the hair found on the stick was similar to the hair of the deceased and that the hair found on the bed sheet came from the body of a member of the negro race.

The objection goes to the weight and not to the admissibility of the evidence.

Bill of exception No. 7 was taken to the introduction of a wrist watch belonging to the deceased which the accused had pawned shortly before his arrest. The objection seems to be principally leveled at the fact that the witnesses [fol. 943] identifying the watch as being the property of the deceased were unable to state the serial number of it and call particular attention to all of its characteristics. From the per curiam of the trial judge, it appears that the watch was identified as being the property of the deceased before it was introduced into evidence and that the objection was mainly leveled at the fact that the witnesses could not give the serial number of the watch. The objection goes to the weight and not the admissibility of the evidence.

Bills of exceptions Nos. 8, 9 and 10 were taken to the rulings of the trial court regarding a confession made by the defendant on July 18, 1946. It appears from the evidence that the State placed a witness on the stand to prove that the confession was free and voluntary. While the witness was testifying a controversy arose as to the admissibility of the confession. The trial judge had the jury withdrawn and the admissibility of the confession was inquired into out of the presence of the jury. The State placed several witnesses on the stand who testified to facts showing that the confession was free and voluntary. These witnesses were cross-examined by counsel for the defendant and he was afforded an opportunity to controvert the testimony offered by the State. The only witness placed on the stand by counsel for the defendant was one who testified to a contradictory statement made by a deputy sheriff. After the matter was submitted, the court ruled that the State had laid a proper foundation for the admission of the confession. Counsel reserved a bill of exception to the ruling. The jury was recalled and the State placed two witnesses on the stand who were present at the time the confession was made. These witnesses testified to facts showing the confession was free and voluntary. The State offered the confession in evidence and counsel for the defendant objected to its admission on the ground that he had a right to controvert its admissibility.

Article 1, Section 11, of the Constitution of Louisiana provides:

"No person under arrest shall be subjected to any treatment designed by effect of body or mind to compel confession of crime; nor shall any confession be used against any person accused of crime unless freely and voluntarily made."

[fol. 944] It is provided in Article 451 of the Code of Criminal Procedure, as follows:

"Before what purposes to be a confession can be introduced in evidence, it must be affirmatively shown that it was free and voluntary, and not made under the influence of fear, duress, intimidation, menaces, threats, inducements or promises."

It is well settled that a confession cannot be admitted in evidence until after it is shown, not only affirmatively but by proof beyond a reasonable doubt, that it was free and voluntary and not made under the influence of fear, duress, intimidation, menaces, threats, inducements or promises. State v. Henry, 196 La. 217; 198 So. 910; State v. Graffim, 202 La. 869; 13 So. (2d) 249; State v. Ellis, 207 La. 812; State v. Ross, 212 La. 405; 31 So. (2d) 842; State v. Wilson, 214 La. 317, 37 So. (2d) 804.

The defendant was convicted of this offense on a prior occasion. On appeal a new trial was granted because this court was not satisfied from the record, as made up, that the first confession was free and voluntary. The testimony touching the admission of the confession was not taken down and incorporated in the record. We suggested that on the new trial that the testimony touching the admission of the confessions be reduced to writing and made part of the record in event of another appeal. We did not adjudge that the confessions were not free and voluntary but our holding was to the effect that the record, as made up, left a reasonable doubt in our minds that the first confession was free and voluntary. State v. Wilson, supra.

On the morning of June 16, 1946 Mr. and Mrs. Joseph Petrolia of New Sarpy, St. Charles Parish, were found in their home dead with their skulls crushed in. It appeared that they had been clubbed to death while they were asleep

and the woman had been ravished. During the night of June 15th, the same night of the murder, the defendant entered the home of two colored women in the neighborhood where the Petrolias lived, and struck the women with a stick as they lay in bed. One was injured on the head and the other's arm was broken. The defendant was charged with aggravated battery for striking these two women. When the officers sought to apprehend the defendant, they [fol. 945] found he had disappeared. Thirty days thereafter, on July 15th, three deputy sheriffs from St. Charles Parish, having acquired information that the defendant was in the vicinity of Hammond, went to Hammond to arrest the defendant. At their request, the chief of police and the marshal accompanied them and assisted in the arrest of the defendant. The defendant was brought to the police station at Hammond and one of the deputies phoned the sheriff of St. Charles Parish informing him that they had arrested the defendant. The sheriff requested them to bring the defendant to the highway police headquarters at the Huey Long Bridge and that he would meet them at that place. The defendant was interrogated for some four or five hours and confessed that he had committed the offense. The defendant was then placed in the parish prison in New Orleans. On July 18th, two days thereafter, he was again interrogated and made a further confession to the offense. He was indicted by the grand jury of St. Charles Parish for the murder of Joseph Petrolia, the murder of Mrs. Petrolia and for aggravated rape on the person of Mrs. Petrolia. In the present case he was tried and convicted for the murder of Mrs. Petrolia.

We have examined the testimony, taken before the judge out of the presence of the jury, touching the admissibility of the confessions, and find that the State produced the witnesses who were present at the arrest of the defendant, the the witnesses who brought him to the Huey Long Bridge, the witnesses who were present at the highway police headquarters when the defendant was interrogated and confessed to the offense, and the witnesses who were present at the time he confessed to the offense at the parish prison. All of these witnesses testified that the defendant was not subjected to any treatment designed to compel a confession of the crime. The witnesses present at the time the con-

fessions were made testified that the confessions were free and voluntary and that no force or promise was used to secure the confessions.

The only witness placed on the stand to controvert the testimony of the State's witnesses was a witness who testified that one of the deputy sheriffs told her, "I did not strike him but the boys at the bridge worked on him." This statement was denied by the deputy sheriff. This testimony of the defendant's witness could only be given effect as [fol. 946] discrediting the testimony of the deputy sheriff. Even though the testimony of the deputy sheriff be discredited, the other witnesses have testified to facts that show the confessions were free and voluntary.

Counsel for the defendant lays stress on the fact that someone slapped the defendant while he was detained at the police station at Hammond and the fact that the second confession was made in the execution room at the parish prison.

The only one who testified that the defendant was slapped was one of the deputy sheriffs. He stated that while he was phoning the sheriff of St. Charles Parish from Hammond that someone came in and slapped the defendant and that he reprimanded the person for so doing. He testified that the person left immediately. The other officers testified that they did not see this occurrence. The defendant had not been interrogated at that time about the murder but was being held for aggravated battery, an offense not connected with the murder.

The testimony of the officials of the parish prison concerning the execution room is to the effect that the entire floor is painted green and unless one knows in advance that there is a trap door in the floor it would not be noticed. The testimony of the other witnesses who were present is to the effect that they did not see or notice the trap door in the floor. The room was selected because it was convenient and on the same floor of the cell in which the defendant was kept. There was a large table in the room and a number of chairs around it. The defendant and the witnesses were seated around this table during the interrogation and at the time the defendant confessed to the offense.

No testimony was produced by the defense to show that the confession resulted from any fear or duress resulting from the incident at Hammond or from the fact that the second confession was made in the execution room of the parish prison.

The admissibility of a confession is determined by the trial judge and not the jury. The effect of the confession is to be determined by the jury after it has been held by the trial judge to be admissible. State v. Thomas, 208 La. 548, 23 So. (2d) 212 and the authorities cited therein; State v. Robinson, 215 La. 794, 41 So. (2d) 848.

[fol. 947] Counsel for the defendant contends that he had a right to again test the admissibility of the confession before the jury. It appears from the record that he attempted to interrupt the State before the State had completed its evidence in chief in order to contest the admissibility of the confession. The court refused to permit the interruption but afforded counsel full opportunity to cross-examine the witnesses and place whatever evidence he desired to discredit the confession. The ruling is correct because the admissibility of the confession is to be determined by the court and the effect to be given it is to be determined by the jury.

Bills of exceptions Nos. 11, 12 and 13 were taken to the refusal of the trial court to admit in evidence a threatening letter, purported to have been received by a relative of the deceased, written one year before the offense was committed. The purport of the letter was that this relative's life had been threatened.

From the per curiam of the trial court, it appears that the letter was addressed to parties other than any of the principals involved in the case and was in no wise connected with the case. Counsel for the defendant contends that the letter was offered to prove that the defendant did not commit the offense and that the crime was committed by another person. The evidence is not relevant.

Bill of exception No. 14 was taken to the overruling of a motion for a new trial. The motion is based on the thirteen bills of exceptions and an allegation to the effect that the defendant was denied a trial by due process of law. We have already considered the issues raised in the bills of exceptions. Defendant alleges that the trial of the case was continuous from day to day with sessions of court

lasting as late as 1:30 A. M. and that the trial ended on Friday at 4:00 o'clock in the morning. Counsel takes the position that he was greatly handicapped because of the long sessions of court. He states that he was the only counsel representing the defendant and that the State was represented by the district attorney and two assistants who worked in relays which gave the State an advantage in presenting the case.

[fol. 948] We have examined the minutes of the court and it appears that the sessions of court began at 10:30 A. M. and the only minute entry designating the time that the sessions ended was the minute entry of the jury reporting its verdict at 3:55 A. M.

Counsel has cited us no authorities to support his contention. This question cannot be raised for the first time in a motion for a new trial. If counsel had a complaint he should have taken a bill at the time of the occurrence.

Bill of exception No. 15 was taken to a motion in arrest of judgment. The motion is predicated on the grounds set forth in six of the bills of exceptions. It presents no new issue and we have already discussed the issues raised in the bills of exceptions.

For the reasons assigned, the conviction and sentence are affirmed.

[fol. 949] SUPREME COURT OF LOUISIANA

[Title omitted]

APPLICATION FOR REHEARING

To the Supreme Court of the State of Louisiana:

The petition of Milton Harold Wilson, defendant and appellant, respectfully shows:

1. That the opinion and decree rendered in this cause on the 24th. day of April, 1950, is contrary to the Law and the Evidence and the Jurisprudence of this State, and there are grievous Errors in the Judgment pronounced for the following reasons, to-wit:

2. That in the Exception No. 7, in passing upon the Admissibility of a certain Benrus Watch in Evidence the Supreme Court centered its attention on the testimony of two State witnesses, namely, Robert Edwards and Sgt. Bradly,

who were questioned at length concerning the serial number of the watch which had nothing to do with the Admissibility of the watch in evidence as no one can be expected to remember the serial number of another person's watch. The Objection was to the inability of the one State witness who knew the watch to identify same and her inability to describe the watch or give any one of its unusual characteristics. And therefore the Supreme Court was in error in sustaining the Ruling on this Exception.

3. The Supreme Court was in error in passing upon Three (3) Exceptions Nos. 8, 9 and 10, altogether at the same time, and overlooking the vital points in the Objections made in these 3 Exceptions.

In Exception No. 8, the Supreme Court failed to notice that the District Court ruled: . . . "That the proper foundation has been laid" simply upon the partial direct examination of One (1) State witness without any cross-examination which was precluded by the Ruling of the Court and without hearing any of the witnesses of the accused on the foundation, all of which is contrary to the Law and the Jurisprudence.

In Exception No. 10, the Court again Ruled that the purported Confession was Admissible in Evidence upon the testimony of 3 Police Officers and again without hearing any witnesses of the defendant, and even permitted the purported Confession to be read to the Jury without hearing any witnesses of the defendant on the admissibility of the said confession, all of which was contrary to the Law and the Jurisprudence.

In Exception No. 9, the District Court again Admitted the purported Confession in evidence without hearing any of the witnesses of the defendant, but after hearing the Argument of Counsel for Defendant in which argument it was shown that a great mass of new evidence showing that the said purported Confession was not free and voluntary in addition to the evidence produced by the defendant in the previous trial, and therefore the Ruling of the District Court admitting the purported confession in Evidence was Error and in passing upon all this evidence the Supreme Court overlooked not only the Error of the District Court in not hearing the witnesses of Defendant but also failed to consider The Threats, Duress, Intimidation and Fear

used against the accused in compelling him to sign the said purported Confession.

4. The Supreme Court was also in Error in considering the Exceptions Nos. 11, 12 and 13 altogether as one Exception and in so doing overlooked the vital points in the Objections to the Rulings of the District Court in these three Exceptions.

In Exception No. 11 the Court ruled that the witness Mrs. Lucy Vanderlinden could not testify to the trouble between Mrs. Petrolia and her father Noah Clement, because the only trouble that the witness had seen personally occurred one year previous to the offense and her knowledge of other trouble was told her by Mrs. Petrolia, but what was told [fol. 950] her by the deceased was not Hearsay Evidence and was perfectly admissible in Evidence and therefore the Supreme Court was in error in sustaining the District Court on this Exception.

The Exception No. 12 was a Ruling by the District Court refusing to admit a letter in evidence which had been written to Dy. Sheriff Guidry by Noah Clement, father of Mrs. Petrolia in answer to a letter which Dy. Sheriff Guidry had written to him, which letter was to be used for comparison with the Threatening Letter written by Noah Clement to another member of Mrs. Petrolia's family. The Supreme Court made a mistake in assuming that the Threatening Letter was written one year before this crime was committed and so stated in its Judgment, whereas, the Threatening Letter was written after the crime was committed, which Error of the Supreme Court, can now be corrected only by the granting of a Rehearing.

The Exception No. 13 was taken to the Ruling of the Court refusing to admit in Evidence a Document D.-5 which was the report of the Handwriting Expert showing that the handwriting of the Threatening Letter D-3 and the letter received from Noah Clement, Mrs. Petrolia's father, was one and the same handwriting. The Supreme Court again mistook the letter written to Dy. Sheriff Guidry as the Threatening Letter, which the Supreme Court believed was written one year before the happening of this crime when as a matter of fact all the letters were written after the happening of this crime and were all perfectly admissible in evidence as they had been connected to the threatening Letter by the evidence of Mrs. Lucy Vander-

linden. The Error of the Supreme Court in believing that these letters were written one year before the happening of this crime should be corrected and this may only be done by the granting of a Rehearing.

5. Petitioner further shows that he will file a Brief in support of this application for a Rehearing within Ten (10) days from this date showing in detail the Objections and Rulings of the District Court and showing the reasons why the Supreme Court was in Error in sustaining the District Court together with the proper citations.

The premises considered, petitioner prays that after due consideration, of this petition and the Brief filed in support thereof, a Rehearing be granted in this case, and that finally the verdict of the jury and the Sentence of the District Court be annulled, and the case remanded for a New Trial.

Defendant further prays for an extension of time of Ten (10) days within which to file briefs in support of this application for a Rehearing.

/s/ Lubin F. Laurent, Attorney for Defendant.

Order

It is ordered by the Court that Attorney for the Defendant be and he is hereby granted an extension of Ten (10) days within which to file Briefs in support of this Application for a Rehearing.

New Orleans, Louisiana, this 9 day of May, 1950.

/s/ Harold A. Moise, Justice Supreme Court.

[fol. 951] In Supreme Court of Louisiana

[Title omitted]

Order Refusing Application for Rehearing—May 29, 1950

* * * * * * *

Rehearings Were Refused in the Following Cases:

* * * * * * *

39,761

State of Lousiana *v.* Milton Harold Wilson

* * * * * * *

I, Louis P. Niklaus, Clerk, Supreme Court of Louisiana, do hereby certify the above to be a true and correct extract from the minutes of this court.

In witness whereof, I hereunto sign my name and affix the seal of the court aforesaid, at the City of New Orleans, this the 15th day of August, A. D., 1950.

Louis P. Niklaus, Clerk, Supreme Court of Louisiana.
(Seal.)

[fol. 952] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1950

No. 140, Misc.

[Title omitted]

On petition for writ of Certiorari to the Supreme Court of the State of Louisiana.

ORDER GRANTING MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS; GRANTING PETITION FOR WRIT OF CERTIORARI, ETC.—October 23, 1950.

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted and the case is transferred to the appellate docket as No. 376.

It is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

FILED
DEC 26 1950

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

No. 376

MILTON HAROLD WILSON,

Petitioner,

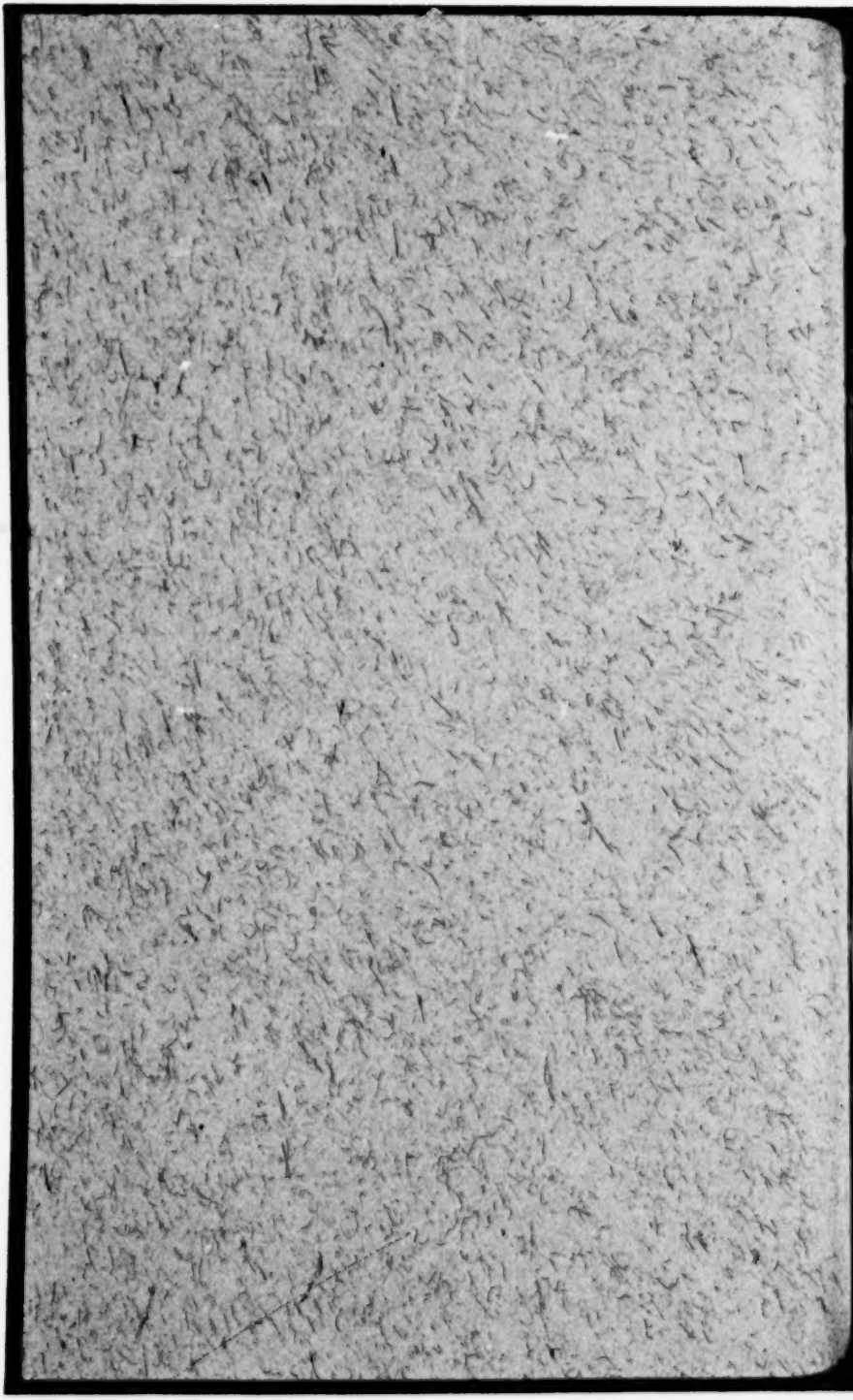
vs.

STATE OF LOUISIANA,

Respondent

BRIEF ON BEHALF OF PETITIONER

LUBIN F. LAURENT,
HENRY P. VIDRINE,
Counsel for Petitioner.



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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

No. 140

MILTON HAROLD WILSON,

Petitioner,

vs.

STATE OF LOUISIANA,

Respondent

BRIEF ON BEHALF OF PETITIONER IN WRIT

Statement of Case

During the night of June 15, 1946, Mr. and Mrs. Joseph Petrolia were killed, in a small three-room "shotgun" house on a side road near the east bank of the Mississippi River at New Sarpy, Parish of St. Charles, Louisiana. There were no witnesses to the killing and no noise of any kind was heard by the neighbors.

The lady next door discovered the murder early in the morning and promptly notified Deputy Sheriff Guidry, and, upon investigation, he found that the lock on the back screen door had been broken and that the door had been propped open with a stick (apparently an okra stem that had been pulled out of the back garden). The Deputy

Sheriff found the body of Mr. Petrolia in the bed in the front room with no blood on his pillow and the body of Mrs. Petrolia lying in the middle of the floor, at the foot of the bed in a pool of blood and her pillow at the head of the bed soaked with blood, but there was not a speck of blood either on the bed-sheet or the floor, between her pillow at the head of the bed soaked with blood and her body which was lying in the middle of the floor in a pool of blood. He also found a stick in the back yard, one and one-half inches thick and four inches wide at the top tapering to a point at the bottom.

The Sheriff and his Deputies, in an effort to apprehend the murderer, searched the entire village of New Sarpy including the colored bar-rooms back of the railroad track and the houses of the colored people living in the village of New Sarpy but were unable to find any clue whatsoever.

The accused is a colored man then thirty-seven years old, born and raised on a plantation at St. Rose, Louisiana, about three miles from New Sarpy, Louisiana, by his old grandmother now eighty years of age and he had worked all his life there and bore an excellent reputation for peace and quiet, never having been arrested, and, during World War II he was sent to an Army Camp at Hammond, Louisiana, and while there had been living with a common law wife named Evelyn Green in a house in the field near her mother's house.

The Sheriff and his Deputies, during their investigation had also inspected the house of Lucien Smith, a friend of his, where he was accustomed to sleeping when he would come to visit his friend, Lucien Smith. The officers inspected the bed clothing and clothing of Lucien Smith and the defendant, but their investigation revealed nothing which could in any manner connect the defendant with the crime, and the officers went on with their investigation without holding the defendant.

It so happened that on the night of June 15, 1946, the defendant had gone to a colored bar-room back of the railroad tracks and while there he met a woman named Alice Johnson and she prevailed upon him to buy a bottle of wine which they were to drink with some friends. The bottle of wine cost One Dollar and twenty-five cents but as the defendant did not have the exact price of the wine he placed a five dollar bill on the counter. Alice Johnson took the bottle of wine and the Three Dollars and seventy-five cents change and ran away with it, telling him to come to her house to drink the bottle of wine and get his change. After staying there awhile he decided to go to Alice Johnson's house for his wine and his change and when he got there the said Alice Johnson opened the door and kicked at him and refused to have anything to do with him and he became angry, pushed the door open, and went in the house and had a fight with her, and during the fight, he struck her on the arm with a stick which was in the corner of the mantel-piece.

However the Parish Officers knew nothing of this fight but a week or so afterwards Alice Johnson went to make a charge against the defendant and a warrant was issued for his arrest and when the officers received the warrant and saw that the defendant had struck Alice Johnson, on that night, with a stick, they concluded that he was probably the same man who had struck Mr. and Mrs. Joseph Petrolia with a stick on the same night.

In the meantime the defendant had gone to Hammond to visit his common law wife and to try to get a job at a saw mill there as his job at St. Rose had run out. When he arrived at Hammond he found that she had moved away so he stopped at her mother's house who was Sadie Glasper, went to get a job at the saw mill which was to begin in a few days, and in the meanwhile worked for Sadie Glasper on her farm.

The officers not knowing the address of defendant, Mr. Guidry, the Deputy Sheriff at New Sarpy, enlisted the help of the postmistress at New Sarpy, Mrs. Lucy Vanderlinden, and she observed the return address on a letter which the defendant had written to his aunt and gave this address to Deputy Sheriff Guidry.

On July 15, 1946, exactly one month after the murder, Deputy Sheriff Guidry together with two other Deputy Sheriffs went to Hammond, Louisiana. They arrested him at about 8:00 P. M. but instead of taking him to the St. Charles Parish Jail they took him to the Hammond Police Station where violence was used on him because he could not answer questions concerning the crime in St. Charles Parish.

While at the Hammond Police Station Deputy Sheriff Guidry had telephoned to Sheriff Vial of St. Charles Parish and received orders to take the defendant to the Huey P. Long Bridge Police Station, located in a secluded spot, at the foot of the Huey P. Long Bridge. On the way to the Bridge Police Station the defendant was not given anything to eat or drink although the Deputy Sheriffs stopped on the way at a restaurant at Laplace, Louisiana, and then stopped at their houses in Norco, Louisiana, for refreshments.

Arriving at the Huey P. Long Bridge Police Station between 11:30 and 12:00 midnight, the defendant was taken to the Ammunition Room of the police station, and he was set on a stool in the middle of this room, surrounded by the Sheriff and Deputy Sheriffs of St. Charles Parish and the Highway Policemen attached to the Station, about twenty-five in number, armed with billies and pistols.

The Officers began to question him about the Petrolia murder and concerning his whereabouts on that night, but, when he could not answer the questions concerning the Petrolia murder the Officers began a general cursing and

beat him on the head, on the back and in the stomach and threatened to take him in the country, tie him behind a tractor, pour gasoline on him and set it afire and drag him over the roads of St. Charles Parish if he did not confess to the killing.

The Officers carried on the cursing, violence and threats until 5:00 o'clock in the morning without permitting the defendant to sleep, eat or drink and without permitting him the use of a toilet, and finally, being no longer able to endure the torture being administered to him, he affixed his signature to a document which had been written by a Deputy Sheriff and which was the purported confession dated July 16, 1946.

The defendant was then taken to the New Orleans Parish Prison (instead of being taken to the St. Charles Parish Jail), arriving there at about 6:00 A. M., where he was administered sulpha drugs and given rubbing alcohol, and, Deputy Sheriff Guidry on his way home stopped at the house of the postmistress Mrs. Lucy Vanderlinden who had been working with him on the case to tell her that the defendant had confessed; that he, Guidry, had not struck him, but that "the boys at the Bridge had worked on him and made him confess."

On the morning of July 18, 1946, with only one day intervening, Deputy Sheriff Prejean and Highway Policeman Lt. Moore and Sgt. Mack, the very same Officers who had worked on the accused to obtain the confession dated July 16, 1946, went to the New Orleans Parish Prison, upon orders of Sheriff Vial, to obtain a second purported confession for the reason that the first purported confession did not contain any obscene language such as negroes use, and Captain Merideth, the Warden, wrapped a blanket around the defendant, although it was summer, and took him from the death cell to the Execution Room of the New Orleans

Parish Prison and set the defendant on the Executioner's Trap Door, with the eyebolt and ring for the rope directly over his head, and there under such fear-instilling circumstances, and threats of repeating the tortures of the Bridge Police Station, and, of Swinging the Trap-Door on him, he finally affixed his signature to another document which was the purported confession dated July 18, 1946.

The case was set for trial, after a Motion for Change of Venue had been denied, but this trial resulted in a "Mistrial" for the reason that during the course of the trial defendant was urinating lumps of blood mixed with pus every half hour, whereupon Dr. Kirn, the Parish Physician, upon being summoned by the Court recommended that the defendant be sent to the Charity Hospital immediately. The Charity Hospital Report marked Defendant No. 1 (in Exhibit Envelope) shows the diagnosis of the Charity Hospital to be "Bladder Tumor."

Upon the return of the defendant from the Charity Hospital the case was again set for trial, resulting in the defendant being found guilty, but, on appeal to the Supreme Court of Louisiana, the case was remanded for a new trial, the Judgment of the Supreme Court of Louisiana being transcribed in (Volume 1, page 35) of the Record.

For a third time the case was set for trial, resulting in a verdict of guilty and the defendant again appealed to the Supreme Court of Louisiana, which Court affirmed the verdict of the Jury and the Judgment of the Trial Court and the defendant then applied for a Writ of Certiorari in the Supreme Court of the United States.

Argument

May it please the Court:

The appeal to the Supreme Court of Louisiana was based upon fifteen (15) Bills of Exception taken to the Rulings of

the Trial Court showing that the trial was greatly prejudicial to the accused, but as some of these Exceptions did not contain direct Constitutional questions, counsel confined his application for a Writ of Certiorari to the three (3) Exceptions to the Rulings of the Trial Court, affirmed by the Supreme Court of Louisiana, which were more directly in contravention with the Constitution, as follows:

Exception No. 8 (Trans. Vol. 1, p. 92).

The Ruling of the Trial Court (Trans. Vol. 2, p. 476, 477), *ex propria motu*, over the objection of Counsel for defendant, simply upon the partial-direct examination of only one (1) State witness, thus precluding cross examination of this only one (1) State witness by the defendant, that, the foundation (or predicate) for the introduction in evidence of the purported confession dated July 18, 1946, had been laid, was contrary to all laws of all lands in this point, which Ruling was a denial to the defendant of a trial by Due Process Law and a denial of the "Equal Protection Of The Laws" guaranteed to him under the 5th and 14th Amendments to the Constitution of the United States and Art. 1, Sec. 2 of the Constitution of Louisiana, and contrary to Art. 451 of Dart's Louisiana Code of Criminal Law and Procedure, and the Jurisprudence of the Supreme Court of the United States and of the State of Louisiana and against the Mandate of the Louisiana Supreme Court in its Judgment (Trans. Vol. 1, p. 45) decreeing that the defendant shall have the right to give evidence to the contrary on this point.

The defendant had an undeniable right to cross-interrogate the witness offered by the State in reference to the circumstances of the alleged confession. He cannot be restricted to the sole right of attacking the confession after it is introduced in evidence, and the refusal of this

right of cross-examination to the defendant was Reversible Error on the part of the Trial Judge and on the part of the Louisiana Supreme Court in affirming it.

"Where a witness has testified to a confession, accused has the right to cross examine him as to what influence he used to obtain it."

White v. *United States,* Fed. Cas. No. 17558 (1 Hayw. & H. 127).

"Before a confession is allowed to go to the Jury the witness to whom it was made should be interrogated whether it was voluntary."

State v. *Peter,* 14 La. Ann. 525.

"The Judge must hear the defendant's evidence (including evidence from cross-examination of the prosecution's witnesses) upon the issue of voluntariness."

Wigmore on Evidence, 3rd Ed. Vol. 3, p. 348, 349.

"The admissibility in evidence of a confession of the accused must, necessarily, be tried and determined by the Judge before it can be given to the jury as evidence; and, in such a trial the accused has the right to participate, and through Counsel, cross-examine the State's witnesses, by whom the confession is sought to be proved."

State v. *Miller,* 42 La. Ann. 1186; 8 So. 309.

"The guarantee of Due Process of Law may be violated by a refusal to permit the accused to be heard at the proper time, as on the question of the free and voluntary character of a confession at the preliminary inquiry as to its admissibility."

Corpus Juris Secundum, Constitutional Law No. 591.

Exception No. 10 (Trans. Vol. 3, p. 728).

The Supreme Court of Louisiana erred in sustaining the Ruling of the Trial Court (Trans. Vol. 3, p. 728 to 733), that the purported confession dated July 18, 1946, was admis-

sible in evidence and could be read to the Jury, simply upon hearing the evidence of three (3) State witnesses, but without hearing even one witness for the defendant, and against the Mandate of the Louisiana Supreme Court in its Judgment (Trans. Vol. 1, p. 45) remanding this case and decreeing that both sides should be heard as to the free and voluntary character of said purported confession, and over defendant's objection of Counsel for defendant, which was a denial to the defendant of a trial by Due Process of Law and the Equal Protection of the Laws, guaranteed to him by the 5th and 14th Amendments to the Constitution of the United States, and Art. 1, Sec. 2, of the Constitution of Louisiana 1921, and contrary to Art. 451 of Dart's Louisiana Code of Criminal Procedure as interpreted by the Louisiana Supreme Court in *State* v. *Lanthier*, 201 La. 844; 10 So. (2d) 638, and contrary to the Jurisprudence of the United States Supreme Court and the Jurisprudence of the Supreme Court of Louisiana.

The Judge, having permitted the purported confession of the defendant to go before the jury, simply upon the testimony of the State's witnesses, that it was free and voluntary, without according to the defendant his right to place witnesses on the stand to traverse or contradict the same, for all practical purposes, admitted in evidence the confession before the jury without properly passing upon the question of whether or not the foundation had been laid to introduce the same. In short, he did not really pass upon the admissibility of the alleged confession before permitting it to go to the Jury, over the defendant's objection, since he had not heard any of the witnesses of the defendant.

If the accused is compelled to withhold his evidence tending to establish that the confession is not free and voluntary until such time as he offers his proof in defense, there

would be very few cases where the purported confession would not get before the Jury, because certainly the State is not going to offer evidence to prove that the confession was not free and voluntary.

It is elementary that the confession of an accused is not admissible against him unless it is a free and voluntary confession. Any evidence offered by the State is only *prima facie* evidence but *prima facie* evidence is not proof. It simply means that the issue as to the character of the confession has been raised and both sides have the right to be heard on this issue and the issue is not to be closed at the very instant that the State manages to eke out from a State witness that the confession was free and voluntary, and all opportunity denied to the other party to be heard.

The Ruling was not only erroneous but it obviously prejudiced the substantial, statutory and constitutional right of the defendant and was a direct violation of the Due Process of Law Clause of the 5th and 14th Amendments to the Constitution of the United States, Section 2, Art. 1, of the Constitution of Louisiana.

AUTHORITIES:

"Ordinarily, the testimony of the defendant to show improper influence inducing a confession should be offered and received before the confession is admitted."
Rossi v. *United States,* 278 F. 349.

"A person may offer evidence in rebuttal in order to deny a confession."
Bram v. *United States,* 18 S.C. 183; 168 U.S. 532; 42 L. Ed. 568.

"Condition precedent to use of confession—Free and Voluntary Rule—Before what purports to be a confession can be introduced in evidence, it must be affirmatively shown that it was free and voluntary, and not

made under the influence of fear, duress, intimidation, menaces, threats, inducements or promises."

Louisiana Code of Criminal Law and Procedure, Art. 451.

"Where the States offers to make proof that confession was free and voluntary, the issue regarding character of confession is properly raised and both sides have right to be heard in the issue. Louisiana Code of Criminal Law and Procedure, Art. 451."

State v. *Lanthier*, 10 So.(2d) 638; 201 La. 844.

"When a witness has testified that the confession was not induced by promises or threats, it is reversible error to refuse to allow accused to show that he was forced to make the offer in question."

Marr's Criminal Jurisprudence of Louisiana, Vol. 2, p. 835.

"The Judge must hear the defendant's evidence (including evidence from cross examination of the prosecution's witnesses) upon the issue of voluntariness."

Wigmore on Evidence, 3rd Ed. Vol. 3, p. 348, 349.

Citing: *People* v. *Fox*, 121 N. Y. 449, 24 N. E. 923:

"The Judge's rejection of the defendant's evidence until the defendant's own case was introduced, under a promise to strike out the confession if then found to be inadmissible, held erroneous."

"In a criminal prosecution, the accused has a right to object to the admission of an implied confession resulting from an offer to compromise, on the ground that it was not voluntary, and where a witness has testified that the confession was not induced by promises or threats, the accused should be allowed to offer rebutting proof going to show that he was forced to make the offer in question, and the refusal of such offer, and the admission of the confession, in spite of it, is sufficient to vitiate the verdict and cause the remanding of the case."

State v. *Platte*, 34 La. Ann. 1061.

Exception No. 9 (Trans. Vol. 1, p. 96).

The Ruling of the Trial Court, (Trans. Vol. 3, pp. 721 to 733), over the objection of counsel for defendant, that the purported confesson dated July 18, 1946 (Exhibit Folder), was admissible in evidence and could be read to the Jury, was reversible error on the part of both the Trial Court and the Supreme Court of Louisiana when it had been shown by clear evidence extracted from State Witnesses and the evidence of the witnesses who should have been permitted to testify on the admissibility of the purported confessions, proved beyond a reasonable doubt that mob violence, duress, cursing, threats, intimidation and putting in fear, were used in forcing the accused to affix his signature to both confessions, which was prejudical to the substantial, constitutional and statutory rights of the accused.

The fact that the District Attorney offered only the purported confession of July 18, 1946, in evidence, was evidently an attempt on his part to disconnect the mob violence, duress, cursing, threats, intimidation and putting in fear, used on the defendant at the Hammond Police Station and the Bridge Police Station, in forcing the defendant to affix his signature to the purported confession of July 16, 1946 (Exhibit File) but certainly his purpose was futile since the confession dated July 16, 1946, was introduced in evidence by the defendant, for comparison only, (Trans. Vol. 3, p. 778), and the purported confession of July 18, 1946, was obtained by the very same Officers who had obtained the purported confession of July 16, 1946, with only one (1) day intervening and it is the jurisprudence of the Supreme Court of the United States and the State of Louisiana as cited below that the mob violence, duress, cursing, threats, intimidation, menaces and putting in fear, used on the defendant at the Hammond Police Station and the Bridge Police Station in forcing the defendant to affix

his signature to the purported confession dated July 16, 1946, were equally and additionally applicable to the duress, threats, intimidation and putting in fear used by the said Officers in forcing the defendant to affix his signature to the purported confession dated July 18, 1946.

The transcript of the testimony on the admissibility of the purported confession shows:

1. Mr. Guidry, one of the three Deputy Sheriffs who went to Hammond, Louisiana, to arrest the defendant testified, (Trans. 2, p. 644), that they arrested the defendant at about 8:00 P. M. and took him to the Hammond Police Station and that the defendant was struck a blow in the face as he was returning from telephoning Sheriff Vial and that he had stopped the violence on the defendant, and Victor Anderson, City Marshal, testified, (Trans. Vol. 2, p. 619), that at the time, the accused was being questioned concerning a crime in St. Charles Parish.

After leaving the Hammond Police Station at 9:30 P. M. the three Deputy Sheriffs, upon orders of Sheriff Vial took the defendant to the Huey P. Long Bridge Police Station, a secluded spot at the foot of the Huey P. Long Bridge near the City of New Orleans, arriving there between 11:30 and 12:00 midnight, and Sgt. Bradley, a Highway Policeman stationed there, testified (Trans. Vol. 2, p. 593) that the defendant was brought into the Ammunition Room of the Bridge Police Station which was a small room and that assembled there, all ready to receive the defendant, were the Sheriff and Deputy Sheriffs of St. Charles Parish and all the Highway Policemen stationed at the Bridge Police Station. There were twenty to twenty-five Officers there present testified Deputy Sheriff Mongrue, (Trans. Vol. 2, p. 612), and he testified, (Trans. Vol. 2, p. 615), that the defendant was sitting on a stool in that room all night long until 5:00 in the morning, daybreak of January 16, 1946,

without sleep, food or drink or being permitted the use of a toilet and Deputy Sheriff Guidry admitted, (Trans. Vol. 2, p. 633), that the defendant had not been given anything to eat or drink at Hammond or after they left Hammond, yet the Deputy Sheriffs had stopped at a restaurant at Laplace, Louisiana, for refreshments and they had stopped at their homes on their way to the Bridge Police Station. Deputy Sheriff Prejean testified (Trans. Vol. 2, p. 538), "There was general cursing all the time" in that room.

The witnesses for defendant, who by Ruling of the Court were not permitted to testify as to the admissibility of the purported confessions until the purported confession dated July 18, 1946, had been admitted in evidence and read to the Jury, subsequently testified as follows:

Mrs. Lucy Vanderlinden, the U. S. Postmistress at New Sarpy, Louisiana, a highly intelligent white lady who had worked on the case with the Deputy Sheriffs, testified (Trans. Vol. 3, p. 683) that she came to testify "Well, I suppose you would say in the name of Justice." She testified, (Trans. Vol. 3, p. 687), that Deputy Sheriff Guidry stopped at her house, coming directly from the Bridge Police Station on his way home on the morning of July 16, 1946, at 7:30 A. M., to tell her that the defendant had confessed, and she asked him, "How much beating did you have to do to make him confess?", and that Deputy Sheriff Guidry answered, "I Did Not Strike Him, But the Boys at the Bridge Worked on Him and Made Him Confess."

The defendant Milton Harold Wilson testified, (Trans. Vol. 3, p. 771), that at the Hammond Police Station Deputy Sheriff Guidry asked him if he had had a fight with Alice Johnson and he told him "Yes," and then he asked him what he knew about the murder of the Petrolias and he told them that he didn't know anything about it. Then he testified the Hammond Police started "Beating on Me"

and he testified, (Trans. Vol. 3, p. 772), that he was struck on the head and in the stomach and that Deputy Sheriff Guidry told them "Not to beat me any more, that they would finish with me down in Jefferson Parish," and this must be true since Deputy Sheriff Guidry himself testified (Trans. Vol. 2, p. 644) that he had stopped the violence on the defendant at the Hammond Police Station, as he came back from telephoning Sheriff Vial.

The defendant testified (Trans. Vol. 3, p. 774), that at the Bridge Police Station he was questioned concerning his whereabouts on the night of June 15, 1946, and he told them, but when he could not answer anything concerning the murder of the Petrolias because he knew nothing about it, "They went to beating on me," and he testified (Trans. Vol. 3, p. 775), that he was beaten on the head, on the back and on the belly. He further testified (Trans. Vol. 3, p. 776) that at 5:00 o'clock in the morning they had not written anything down; that Sheriff Vial came with a document for him to sign and told him that if he did not sign it he would take him out to the country, tie him behind a tractor, pour gasoline on him and set it afire and burn him up.

It is clear that the defendant after being tortured all night until 5:00 o'clock in the morning and in order to put an end to the continuous torture which he could no longer endure, affixed his signature to the document handed to him, which turned out to be the purported confession dated July 16, 1946.

After his ordeal at the Bridge Police Station at the hands of the mob until 5:00 in the morning, instead of being taken to the St. Charles Parish Jail which was his destination, the defendant was taken to the New Orleans Parish Prison at 6:00 o'clock in the morning, and, on the morning of July 18, 1946, with only one (1) day intervening, three of the very same Officers who had forced the defendant to affix

his signature to the purported confession at the Bridge Police Station, Deputy Sheriffs Prejean, Sgt. Mack and Lt. Moore, upon orders of Sheriff Vial, went to the New Orleans Parish Prison to obtain a second purported confession.

The purpose of going to obtain the second purported confession, Sheriff Vial testified (Trans. Vol. 2, p. 607), was that the first purported confession contained no obscene language as Negroes generally used, and that Lt. Moore knew how to write such confessions, thus proving that the second purported confession dated July 18, 1946, was the confession of Lt. Moore and not that of the defendant.

After explaining the purpose of their visit, Capt. Meredith, the Warden of the New Orleans Parish Prison, testified (Trans. Vol. 3, p. 810), that he took the defendant from the "Death Cell" on the fifth floor and he testified (Trans. Vol. 2, p. 478) that he wrapped a blanket around him (evidently because he could not wear his clothes, since it was in the middle of the summer), and he testified (Trans. Vol. 2, p. 504), that he took the defendant into the Execution Chamber of the Prison in the middle of which was the Executioner's Trap Door with the eyebolt and ring for the rope overhead in the ceiling and the defendant testified (Trans. Vol. 3, p. 779), that he was sat on top of the Trap-Door and he testified (Trans. Vol. 3, p. 780) that Lt. Moore took a sheet that Deputy Sheriff Prejean had and copied off that which must be true since the two purported confessions are practically the same except that the second purported confession contains all the obscene language that Sheriff Vial wanted inserted in it, and Capt. Meredith testified (Trans. Vol. 2, p. 506), "I don't remember Lt. Moore asking any questions."

After Lt. Moore had completed what was evidently his own confession, the defendant testified (Trans. Vol. 3, p. 780): "They told me if I didn't do what they told me, they

were going to hang me and they asked me, did I remember what happened at the Bridge, and I told them I did," and (Trans. Vol. 3, 781), "They told me they were going to throw that trap-door and hang me if I did not sign it."

It is clear that threats, duress, menaces and putting in fear, all carefully planned, were used by these three Officers in forcing the accused to affix his signature to the second purported confession, but then as only one (1) day intervened from the first purported confession, it is also clear, and it is the jurisprudence of the United States Supreme Court and the Louisiana Supreme Court, that the same mob violence, torture, cursing, threats, duress, menaces and putting in fear, used in the first purported confession applied equally to the second purported confession. From the above evidence, most of which was adduced from State witnesses, it is clear that both the purported confession dated July 16, 1946, and the second purported confession dated July 18, 1946, were written by the Officers themselves, and that, by means of mob violence, duress, cursing, threats, intimidation, menaces and putting in fear, at the Hammond Police Station, at the Huey P. Long Bridge Police Station and at the New Orleans Parish Prison, the defendant was compelled to affix his signatures to these documents.

The Ruling of the Trial Court admitting the purported confession dated July 18, 1946, in evidence, affirmed by the Louisiana Supreme Court, was clearly reversible error on the part of both Courts, which was a flagrant violation of the Constitutional rights of the defendant under the fifth and fourteenth Amendments to the Constitution of the United States, and Art. 1, sections 2 and 11, and Art. 451 and 452 of Dart's Louisiana Code of Criminal Law and Procedure and the Jurisprudence of the United States Supreme Court and the Louisiana Supreme Court, as follows:

> "Once a coerced confession has been obtained, all later ones should be excluded from evidence wherever

there is evidence that the coerced one has been urged to secure the later one, Separate opinion of Rutledge, Murphy J. J., dissenting in part.
Molinsky vs. *N. Y.*, 324 U. S. 401; 420; 65 S. Ct. 781; 89 L. Ed. 1029.

"It is well settled that if a confession is obtained by methods which make it involuntary confession, all subsequent confessions are inadmissible in evidence against the accused, if it appears or may be reasonably inferred that the same influence which rendered the first confession involuntary, affected the accused when he made the subsequent confessions."
State v. *Henry*, 196 La. 217; 198 So. 910;
State v. *Phelps*, 138 La. 11; 69 So. 36;
State v. *Wood*, 122 La. 1014; 48 So. 438.

"The Federal Constitution stands as a bar against the conviction of any individual in an American Court by means of a coerced confession. U. S. Constitution Amend. 14."
Ashcraft v. *State of Tenn.*, 64 S. Ct. 921; 322 U. S. 143; 881 L. Ed. 1192.

"A confession which is not voluntary is not admissible in evidence under the 5th Amendment to the Federal Constitution declaring that no person shall be compelled, in a criminal case, to be a witness against himself."
Brown v. *Miss.*, 297 U. S. 278; 56 S. Ct. 461.
Bram v. *U. S.*, 168 U. S. 532; 18 S. Ct. 183; 43 L. Ed. 568.
Malinsky v. *New York*, 324 U. S. 401; 65 S. Ct. 781; 89 L. Ed. 1029.
Chambers v. *State of Fla.*, 60 S. Ct. 472; 309 U. S. 227; 84 L. Ed. 716.
Ziang Sung Wan v. *U. S.*, U. S. 1; 45 S. Ct. 1; 69 L. Ed. 131.
State v. *Henry*, 196 La. 217; 198 So. 918.
State v. *Graffam*, 202 La. 869; 13 So. 249.
State v. *Ellis*, 207 La. 812; 22 So. (2d) 181.

"To determine whether confession was voluntarily made, facts surrounding its execution and not mere conclusions of the Police should be considered."

State v. *Newton*, 173 La. 382; 137 So. 69.

"If the confession is made under the influence of mob violence, it is well settled that it will not be admitted in evidence."

State v. *Revells*, 34 La. Ann. 381; 44 Am. Rep. 436.
State v. *George*, 15 La. Ann. 146.

"The Law cannot measure the force and effect of the influence upon the mind of the accused and therefore excludes the declaration if any degree of influence has been exerted."

Bram v. *U. S.*, 168 U. S. 532; 18 S. Ct. 183 43 L. Ed. 568.
State v. *Young*, 52 La. Ann. 478; 27 So. 50.
State v. *Henry*, 196 La. 27; 198 So. 910.
State v. *Ellis*, 207 La. 812; 22 So. (2d) 181.

Art. 451, Louisiana Code of Criminal Law and Procedure.—Before what purports to be a confession can be introduced in evidence, it must be affirmatively shown that it was free and voluntary and not made under the influence of fear, duress, intimidation, menaces, threats, inducements or promises."

Constitution of Louisiana, Art. 1, Sec. 11.—No person shall be compelled to give evidence against himself in a criminal case or any proceeding that may subject him to criminal prosecution, except as otherwise provided in this Constitution. No person under arrest shall be subjected to any treatment designed by effect on mind or body to compel confession of crime; nor shall any confession be used against any person accused of crime unless freely and voluntarily made."

5th Amend. Constitution of the United States.— . . . "nor shall he be compelled in any criminal case to be a witness against himself nor be deprived of life, liberty or property without due process of law."

14TH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.—. . . "nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

Facts in Purported Confession, Impossible

The purported confession states that the defendant went in through the front door, killed the two people in bed, and upon hearing an automobile coming there, he ran back through the house, broke the latch on the back screen door and ran away.

This sounds very good, but, let us analyze it: Deputy Sheriff Guidry testified, (Trans. Vol. 2, p. 380), that the back screen door was found propped open with a stick (it really was a dry okra stem that had been pulled out of the back garden), and the front door was unlocked. Now, it stands to good reasoning that no man running away from such a crime, because someone was coming there, would stop to go and find a stick, in the dark of the night, and come back to the house and prop up the screen door—for what purpose? Then, the front door was unlocked, and again it stands to reason that the Petrolias would not have gone to bed leaving the front door open as their bed was right next to the front door. The circumstantial evidence is then well founded that the murderer *came in* through the back screen door and *went out* through the front door, but the purported confession states the opposite,—and further, how could he have gone out through the front door when an automobile was coming there? So, then, according to the statements in the purported confession the murderer did not get out of the back door and he did not get out of the front door, and, the window screens being unbroken, he did not get out of the house at all, which proves that the facts related in the pur-

ported confessions are plainly impossible and are ridiculous.

Furthermore, Deputy Sheriff Guidry testified, (Trans. Vol. 2, p. 380-381), that Mrs. Petrolia's pillow was found at the head of the bed, soaked with blood, and that her body was found in the middle of the room, in a pool of blood, but the first purported confession dated July 16, 1946, states that he killed the two persons in bed and ran away, but the woman was not found in bed. She was found in the middle of the room, so that fact is impossible.

The second purported confession dated July 18, 1946, stated that the defendant dragged the body of Mrs. Petrolia from the bed to the middle of the room, yet there was not one speck of blood between either on the bed-sheet or on the floor, between the pillow of Mrs. Petrolia at the head of the bed and the body of Mrs. Petrolia in the middle of the room, and Dr. Clayton, the Coroner, testified (Trans. Vol. 2, p. 368), "If she was dragged I think there should have been." Again the facts stated in the purported confessions are impossible.

The purported confessions state that he bought a weed cigarette for seventy-five cents from two men, which is impossible and ridiculous, as it is a fact of which the Court may well take judicial notice, that weed cigarettes are not known and are never sold in the Country Parishes. Again the purported confessions are impossible.

The purported confessions state that after the fight with the negro woman he went to Lucien Smith's house (where he was to sleep that night) and then went out again and then went to the Petrolia house to commit the crime, but Lucien Smith, at whose house the defendant slept, testified, (Trans. Vol. 3, p. 856), that the defendant came to his house to sleep at about midnight, that he opened the door for him and that he went to bed and he testified, (Trans.

Vol. 3, p. 861), that at 4:30 when he got up to go to work the defendant was still in the bed. Certainly if the defendant had come in, and gone out immediately, Lucien Smith would have seen him go out. It's almost a certainty, and a fact of which the Court might take judicial notice, that after any man has been out drinking and comes home after midnight he is certainly not going to get up and dress and go out again to hunt any women. The statements are incredible and impossible.

And the second purported confession of July 18, 1946, states that defendant had carried away a man's watch and a ladies' watch from the Petrolia house and had thrown the ladies' watch in a lot across the street from Lucien Smith's house, which watch was never found, and which fact is impossible as no one would throw away a ladies' gold watch.

An attempt was made to prove that the watch pawned by the defendant at Hammond, Louisiana, was a watch belonging to Mr. Petrolia by Mrs. Vernon St. Pierre, but all she could tell was that it looked like Mr. Petrolia's watch, and she was not able to state any one of the outstanding and glaring characteristics of the watch such as: 1. The case number of the watch is on the outside of the case; 2. The watch has only one second hand; 3. The name "Benrus" is printed in large letters on the face; 4. The word "shock absorber" is printed on the face of the watch; 5. The hours are printed in Roman numerals around the face; 6. The shape of the watch is oval with square corner; 7. The 'seconds" dial is square with a circle inside the square; 8. Wrist band is a flexible band with separate pieces of metal at 45 degree angles; 9. The watch and wrist band are of yellow gold, and, 10. The crystal on the face is broken.

The defendant testified (Trans. Vol. 3, p. 802) that he had purchased his watch at an Army Camp at Coffeyville, Kan-

sas, and it was clearly proven by Archie Blakenship (Trans. Vol. 3, p. 267); by Rebecca Ward (Trans. Vol. 3, p. 816); by Augusta Jones (Trans. Vol. 3, p. 836), and by Lucien Smith (Trans. Vol. 3, p. 838) that the defendant had come back from the Army Camp with this wrist watch, thus proving that the statement in said confessions concerning two watches is impossible and untrue.

The basic legal reason for rejecting any illegally obtained confessions is that such confessions are untrue and impossible and a confession that is untrue and impossible is no confession at all. Then the said two purported confessions were signed by the Officers who had forced the defendant to sign the same, which is prohibitive except where the defendant signs by making his mark.

> Officers are inhibited from subscribing to confessions, only when accused signs it my making his mark.
> *Sharp* v. *State*, 197 S. W. 207, 81 Tex. Co. R. 256.

In *Brown* v. *Miss.*, 297 U. S. 278, 56 S. Ct. 461, which is one of the cases on which this case is based, the defendant was tortured and tortured in order to obtain a confession and then brought into court under the pretense of a trial and convicted of murder. The Supreme Court of the United States said: "The rack and torture chamber may not be substituted for the witness stand," and cited *Mooney* v. *Holebran*, 264 U. S. 103, 79 L. Ed. 791, which is another case upon which the present case is based, in which the Court said: "May a State through the action of its officers contrive a conviction, through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured, and the trial equally is a mere pretense where the state authorities have contrived a conviction resting solely upon confessions obtained by violence? The process clause requires

that state of action, whether through one agency or another, shall be consistent with the fundamnetal principles of liberty and justice which is at the base of all our civil and political institutions."

"It would be difficult to conceive of methods more revolting to the sense of justice than those taken to procure the confessions of petitioner, and, the use of the confessions thus obtained as the basis of conviction and sentence, was a clear denial of due process of law."

It was held in *Ashcroft* v. *State of Tenn.*, 64 S. Ct. 921, 322 U. S. 143, 88 L. Ed. 1192, which is another case upon which the present case is based, and in which duress was used to obtain confessions, that "The Federal Constitution stands as a bar against the conviction of any individual in an American Court by means of a coerced confession."

As a matter of course, in Louisiana the mere reading of a purported confession wherein it is stated that a negro has killed a white woman is tantamount to a verdict of "guilty." The defendant was thus condemned before he could be heard, and before his witnesses could be heard in his defense, as the Trial Court admitted the purported confession and ordered it read to the Jury before hearing the witnesses of the defense on the admissibility of the said purported confession.

The defendant is innocent of the crime charged against him, and unless this Honorable Court intervenes, he will unjustly and unlawfully have to pay the penalty of Death by Electrocution for a crime which he did not commit.

The facts in this case present a vicious and illegal practice which should be condemned, and be immediately stamped out, by the Supreme Court of the United States, and, Counsel for the defendant respectfully prays that the Judgment of the Supreme Court of Louisiana and the Judgment and Sentence of the 24th Judicial District Court

for the Parish of St. Charles, Louisiana, be reversed and annulled; that the purported confessions dated July 16, 1946 and July 18, 1946, respectively, be decreed by this Honorable Court to be null and void and of no effect, and that your petitioner be granted his Constitutional Rights, and such other and further relief in the premises as this Honorable Court may deem meet, proper and just.

Respectfully submitted,

LUBIN F. LAURENT,
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FILED
FEB 26 19
CHARLES ELMORE

IN THE

Supreme Court of the United States

OCTOBER TERM, 1950

No. 376

MILTON HAROLD WILSON,
Petitioner,

vs.

THE STATE OF LOUISIANA.

BRIEF ON BEHALF OF THE STATE OF LOUISIANA

BOLIVAR E. KEMP, JR.,
Attorney General;

MICHAEL E. CULLIGAN,
Assistant Attorney General;

MELVIN P. BARRE,
District Attorney;

D. ELMORE BECNEL,
Assistant District Attorney;

FRANK H. LANGRIDGE,
Counsel for the State of Louisiana.

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IN THE

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OCTOBER TERM, 1950

No. 376

MILTON HAROLD WILSON,
Petitioner,

VS.

THE STATE OF LOUISIANA.

BRIEF ON BEHALF OF THE STATE OF LOUISIANA

May It Please the Court:

STATEMENT OF THE CASE.

During the early morning hours of June 16, 1946 two residents of New Sarpy, Parish of St. Charles, Louisiana, namely Mr. and Mrs. Joseph Petrolia, were killed in the bedroom of their home at New Sarpy.

The petitioner, Milton Harold Wilson, at two o'clock A. M. of the morning of the murder had broken into the home of a colored woman by the name of

Alice Johnson, who lived in the vicinity of the Petrolia home where Mr. and Mrs. Petrolia were murdered. After Wilson had broken into the home of Alice Johnson, where she lived with her sister, Julia Mae Turner, he attacked both of these women, striking Julia Mae Turner over the head with a stick, which fortunately was rotten and broke with the blow. He then entered into the room of Alice Johnson and struck her across the arm with a different stick, breaking her arm. He then ran out of the house.

According to the testimony of the witnesses, the body of Mr. and Mrs. Petrolia were found around 7:00 o'clock of the morning of June 16, 1946, the same morning that the petitioner struck the said Alice Johnson and Julia Mae Turner.

In making its investigation of the murder, the Deputy Sheriff conducting the investigation went to the home of a colored man by the name of Lucien Smith, at whose home the petitioner stayed on certain occasions. In addition to interrogating Wilson, the petitioner, during the investigation many other persons were interrogated and questioned in order to throw some light upon the murder. Sometime during the afternoon of June 16, the day of the murder, the petitioner, Wilson, left New Sarpy and went to the Town of Hammond, many miles distant from New Sarpy where he remained one month before he was

arrested by officers of Hammond and St. Charles Parish on a warrant issued for his arrest in connection with his attack upon Alice Johnson and Julia Mae Turner.

After his arrest in Hammond on the charge of Aggravated Battery, upon the instructions of the Sheriff of St. Charles Parish, he was taken to the headquarters of the State Police at the Huey P. Long Bridge in Jefferson Parish, which adjoins St. Charles Parish. It was there he made his first confession as to his guilt of the murder of Mr. and Mrs. Petrolia. He was then taken to the Parish Prison in the City of New Orleans where he remained until the 14th of October, 1946. On June 18, 1946 while in the Parish Prison he made a second confession admitting his guilt to the murder of Mr. and Mrs. Petrolia.

On October 28, 1946 the Grand Jury of the Parish of St. Charles returned a true bill charging the said Milton Harold Wilson with the murder of Mrs. Joseph Petrolia, and on November 25, 1946 Wilson was brought to trial for the murder of Mrs. Petrolia for the first time. After a jury had been empanelled and the case commenced it was discovered that the defendant was sick and upon the recommendation of Dr. J. D. Kirn that the accused be sent to the hospital for a check up, a mistrial was entered in the case.

The accused was then brought to trial again and was convicted of the crime of murder of Mrs. Joseph Petrolia. Counsel for the accused appealed the case to the Supreme Court of Louisiana, and the Supreme Court upon hearing ordered the case remanded to the District Court for a new trial, in order that the testimony concerning the admissibility of the confession might be reduced to writing, so that the Supreme Court would have such testimony before it in order to pass upon the question as to whether or not such confessions were free and voluntarily given by the defendant.

The accused was brought to trial again for the third time on the 11th day of April, 1949 and after hearing all of the evidence both for the State and for the accused, the Jury returned a verdict finding the accused guilty. From this verdict of the Jury, counsel for the accused again took an appeal and upon hearing before the Supreme Court of Louisiana the verdict was upheld and from this decision of the Supreme Court of Louisiana, the defendant is now before this Honorable Court.

Counsel for the accused in the trial of this case in the District Court took numerous bills of exceptions to the ruling of the Court, but as pointed out in his offer of points relied upon by petitioner, stands on exceptions Nos. Eight (8), Nine (9) and Ten (10) and the following exhibits:

Confession dated July 16, 1946 marked defendant Two,

Confession dated July 18, 1946 marked State P and State Q,

Charity Hospital report marked defendant One.

ANSWER TO BILL OF EXCEPTION No. EIGHT (8).

Volume 1, pages 92, 93 and 94 sets forth bill of Exception No. Eight. This exception appears to be based on a statement by the Attorney for the accused that is not entirely correct. Counsel for the accused contends that he did not have the opportunity to cross examine state witness Lt. Francis T. Moore during the trial when the state was laying the foundation for the admissibility of Wilson's confession of June 18, 1946 in evidence, and he cites in support thereof the testimony of Lt. Moore and his objections and the Court's ruling as set forth on pages 473 through 478 of Volume Two of the transcript.

In answer to this exception of counsel for the accused, in addition to the testimony of Lt. Moore as set forth on pages 473 through 478, which counsel seems to rely on to establish the legality of his exception, we offer the remaining testimony of Lt. Moore on direct examination, pages 479 through 481 and also the *cross examination* by counsel for the accused, of the witness, Lt. Moore, on pages 481 through 497, Volume Two of the Transcript.

And in further support of our contention that this exception is not well founded we offer the testimony of the following state witnesses, and call the attention of the Court to the fact that each of said witnesses were duly cross examined by counsel for the accused.

(1) *Captain James Merideth*, warden at the Parish Prison at New Orleans-Volume Two (2) pages 497 through 504 for direct examination, and the same Volume, pages 504 through 513 for *cross examination.*

(2) *Edward J. Prejean*, Deputy Sheriff of the Parish of St. Charles, Louisiana. Volume Two (2) pages 515 through 520 for direct examination, and the same volume, pages 520 through 544 for *cross examination.*

(3) *Niles L. Mack*, State Police, Volume Two (2) pages 549 through 556 for direct examination and the same volume, pages 556 through 569 for *cross examination.*

(4) *Lloyd Evans*, Deputy Sheriff, Orleans Parish, Volume Two (2) pages 571 through 574 for direct examination, and same volume, pages 574 through 586 for *cross examination.*

All of the above testimony was taken on behalf of the State for the purpose of laying the foundation to establish the admissibility of the confession of July 18, 1946, in evidence, and was taken outside the presence of the Jury.

After the testimony of the state witnesses relating to the confession of July 18, 1946 was completed in laying the foundation for its admissibility in evi-

dence, the State then placed witnesses on the stand to testify with relation to the confession of July 16, 1946, all of which witnesses were *cross examined* by counsel for the accused.

In fact after all of the witnesses for the State had been heard, counsel for the accused placed one witness on the stand, namely, Mrs. Lucy Vanderlinden, and after her testimony was heard on behalf of the defendant, counsel for the accused then told the Court, "The defense will rest on the question of the admissibility of the confession." Transcript Volume Three (3), page 685.

The Court then ruled that the confession made by the accused on July 18, 1946 was freely and voluntarily given and was admissible in evidence.

We, therefore, submit that counsel can hardly be heard to complain as he does in exception No. Eight (8) that the accused was denied his Constitutional right to cross examine the State's witnesses at the time when the State was laying the foundation to have the confession of July 18, 1946 admitted in evidence, when he actually did cross examine each and every State witness and did himself place one of his own witnesses on the stand to testify.

ANSWER TO BILL OF EXCEPTION No. NINE (9).

Transcript Volume One (1) pages 96 through 106 sets forth bill of exception No. Nine (9). This excep-

tion maintains that the Court erred in admitting the defendant's confession of July 18, 1946 in evidence, for the following reasons:

(1) That the evidence shows that violence was used on the accused at the Hammond Police Station where the accused was questioned concerning the *crime* in St. Charles Parish.

(2) That violence, duress, cursing, threats and putting in fear were used on the accused at the Huey P. Long Bridge Police Station.

(3) That duress, putting in fear and threats were used against the accused in the execution room of the New Orleans Parish Prison.

In answer to contention No. One (1) we submit that the testimony of Deputy Sheriff Guidry who went to Hammond to pick up Wilson on a charge of Aggravated Battery upon one Alice Johnson, clearly shows that there was no violence used upon Wilson in Hammond, as contended. However, Mr. Guidry did testify that while he was telephoning at the Police Station he did observe someone, not an officer, slap Wilson once, and when he, Guidry, admonished the man for doing so this party walked out of the Police Station. Mr. Guidry did not know who the man was but did know it was neither James Bales, Chief of Police of Hammond, nor Victor Anderson, Marshal of the City Court of Hammond, both of whom had assisted him in arresting Wilson on the charge of Aggravated Battery committed upon the said Alice Johnson, a colored woman

of St. Charles Parish. Mr. Guidry also testified that neither he nor Chief Bales or Marshal Anderson ever touched Wilson. See Guidry's testimony, Volume Two (2) pages 642-644-645-646-647-648.

Mr. Guidry further testified that while he had the accused under arrest in Hammond that he bought the defendant a cold drink and during the trip from Hammond to the Huey P. Long Bridge offered to buy him coffee or something to eat. Guidry Testimony Volume Two (2) pages 647-648.

In connection with the treatment received by the accused while in Hammond, Chief of Police James Bales and Marshal Victor Anderson testified that the accused was never at any time mistreated in any manner either by themselves or to their knowledge by anyone else while in their custody. Bales testimony Volume Two (2), pages 632-633-638-639; Anderson Testimony, Volume Two (2) pages 617-618-619-620-625.

In answer to contention No. Two (2), that violence, duress, cursing, threats and putting in fear were used against the accused at the Huey P. Long Bridge Police Station, we submit the testimony of Sgt. Tom Bradley of the Louisiana State Police, Sheriff Leon C. Vial of St. Charles Parish, and Milton Mongrue, St. Charles Parish, all of whom testified that at no time was Wilson, the defendant, ever threatened or

struck in any manner to compel him to confess or for any other reason.

Sgt. Bradley testimony Volume Two (2) pages 589-590-591-592.

Leon C. Vial testimony, Volume Two (2) pages 598-599-600-601.

Milton Mongrue testimony, Volume Two (2) pages 608-609-610.

In addition to the testimony of Sgt. Bradley, Sheriff Vial and Milton Mongrue, we submit the testimony of Capt. James Merideth, Warden of the Parish Prison of New Orleans, who testified that Wilson was brought to the Parish Prison around 5:30 the morning of July 16, 1946 and that he saw him around 9:00 o'clock, at which time Wilson had on no trousers and that he had a good opportunity to observe his physical condition and that he bore no evidence or marks of violence of any kind and that he did not seem to be upset or hurt or ill nor did he appear to have anything wrong with him and, that Wilson at no time ever complained of having been mistreated or struck by anyone. Wilson testified while on the stand that he was treated with sulphur drugs and other medicine after he was taken to the Parish Prison on July 16, 1946. Capt. Merideth was requested by counsel for the accused to look up the records at the Parish Prison to determine the fact that Wilson had been issued sulphur drugs while in the Parish Prison and when Capt. Merideth

returned to the stand the next day after making his investigation, testified that the Parish Prison had no records of Wilson ever having been treated with sulphur drugs or any other drugs while at the prison although they did have their drug department and treated prisoners for sickness at the prison at the time Wilson was there. Transcript Volume Two (2) testimony of Capt. Merideth, pages 497, 498, 499, 509, 510, 511; also Volume Three (3), pages 822, 825, 826.

In further connection with his contention that violence and duress were used on Wilson at the State Police Station at the Huey P. Long Bridge when he made his first confession, counsel for the accused stresses the testimony of his only witness, Mrs. Lucy Vanderlinden, who testified that on the morning of July 16, 1946 that Deputy Sheriff Guidry stopped at her house and informed her that, "The boys had worked on him and made him confess." This statement was definitely denied by Mr. Guidry.

In connection with Mrs. Vanderlinden's testimony above quoted, we call the attention of the Court to the per-curiam of the Trial Judge of this bill of exception No. Nine (9), wherein the Judge has the following to say, "Deputy Sheriff Guidry testified that he had no such conversation with Mrs. Vanderlinden as she testified to and the Court believes it highly improbable that if incidents were true, as testified to by Mrs. Lucy

Vanderlinden, the Deputy Sheriff would not be prone to brag of these incidents in public.

The Court considering the testimony of Mrs. Lucy Vanderlinden along that line together with her testimony along other lines as being a pure manufacture of her mind and not as a fact, and the Court does not believe that any violence in connection with this case was had upon the accused". Volume One (1) page 104.

We would like to quote for the Court's convenience and consideration pertinent parts of the testimony of this woman, Mrs. Vanderlinden, to attempt to show to the Court what the trial judge meant in his per curiam to bill of exception No. Nine (9) when he said, "The Court considering the testimony of Mrs. Lucy Vanderlinden along that line, together with her testimony along other lines, as being a pure manufacture of her mind and not as a fact."

By MR. LAURENT:

Q. What else besides that did Mr. Guidry say, after he told you "the boys worked on him?"

A. He said he had gotten a confession from Pete Wilson; and I asked him what the confession consisted of; and he said the confession consisted of a statement that he entered through the front door to the home, as we had witnessed it that day, and had left through the back door. *To this I objected*, and told him, or rather asked him, if he did not know that the entrance had been made through the back door and not through the front door.

BY MR. LANGRIDGE:

Q. Now, how do you determine that this occured on that particular date?

A. Because it was exactly one (1) month to the day, after the murder. The children were killed on the night of June 15th. *We found their bodies on June 16th.* Then the arrest was made exactly one (1) month later which was the night of July 15th, and then Mr. Guidry returned to me on July sixteenth (16th).

Q. How do you know that he went back and got another confession?

A. Well, he came back and told me he had one; but I did not know what was in it until it was read in court. *I heard the testimony in the first trial.*

BY THE COURT:

Q. You mean you were a witness last time this case was tried?

A. No, sir. I heard the testimony given in the trial.

BY MR. LANGRIDGE:

Q. You heard all the testimony in the last trial—every word, every day?

A. *I never missed a word—in the Supreme Court or anywhere.*

Q. You heard Mr. Guidry testify in the previous trial?

A. Yes.

Q. *You heard the other testimony regarding the confession?*

A. *Every word of it.*

Q. Did you tell anyone that what was going on was not correct?

A. Where? Who do you mean?

Q. I mean, at any time after you heard the last trial.

A. Oh, I told a number of people that I did not think it was right. *I did not think the trial was what I expected it to be—the evidence did not seem to be what I was expecting.* I came over to listen to it with open mind. I didn't know any better.

BY MR. SAMUEL:

Q. What about the conversation you had between you and the deputy?

A. That was strictly between me and the deputy.

Q. You did not consider it was your duty to come here and testify as to that?

A. I thought he was going to testify to it. I was not scheduled to testify. I could not get up and say "Oh Mr. Guidry you said so and so."

Q. Well, the trial did not end after Mr. Guidry gave his testimony, did it?

A. No. It went on and on.

Q. You say you had occasion to speak to Sheriff Vial about it?

A. Yes.

Q. About what time. And where?

A. I don't know, when, but it was after—It must have been in the Spring of last year that I spoke to Mr. Vial on the subject *and told him how I felt about it.*

Q. Have you talked to any of the other officials about it since the first trial?

A. No. Just to Mr. Langridge, the District Attorney, in his office.

Q. What did you have to say to him about it?

A. Just about like I spoke to Sheriff Vial about it.

Q. Well, that doesn't tell me much. What did you tell him about it?

A. Well, I spoke to him about the situation as I saw it—that the most they had here was not evidence; and that I was very much for bringing the guilty party to justice—the man *I thought had done it* and the man I had reason to believe was still threatening the balance of the family.

Q. *In other words, you disagreed with the authorities, who appeared to be under the impression that this particular defendant had committed the crime; is that it?*

A. *Very much so—from the murder date when I went in and saw the children on the floor, right up to now.*

Q. *As soon as you looked at the children lying on the floor there, did you know that this man did not commit the crime?*

A. *Yes. My words to the man were, "When you find the man who did this, his face won't be black."*

Q. *What did you base that conclusion on at that time?*

A. *Trouble.*

Volume Three (3) pages 670, 674, 675, 676, 680, 683, 684, 685.

This woman, Mrs. Vanderlinden, evidently believes herself to be not only a very good handwriting expert but she also must have considered herself a very good amateur detective. By her own testimony she admits that she disagreed with the authorities who made a thorough investigation of these murders as to the guilty party. She even testified that she knew from the moment that she looked at the bodies of Mr. and Mrs. Petrolia lying on the floor the morning of the murder that when the murderer was found he would not be a colored man. And from her testimony it would appear that she was attempting to lay the blame on the father of the murdered woman, Mrs. Petrolia. Her only reason for this belief however is some trouble that Mrs. Petrolia had had with her own father one year prior to the murder, and in connection with this trouble she admits that the only trouble she knew of between Mrs. Petrolia and her father took place one year before Mrs. Petrolia's death. (See Vanderlinden's testimony, Transcript Volume 3, page 854.)

It is also to be noted that although Mrs. Vanderlinden admits she sat through the entire proceedings, including the argument before the Supreme Court of Louisiana in the previous trial of Wilson, that she never offered her testimony to the effect that Mr. Guidry, the Deputy Sheriff, told her "The boys had worked on him and made him confess", even though she sat through all of the testimony including the testimony of Mr. Guidry.

In answer to contention No. Three (3) of Bill of Exception No. Nine (9) we offer the testimony of:

(1) Lt. Francis T. Moore of the Louisiana State Police, Transcript Volume 2, pages 474-475-476-480-481 on direct examination and pages 481, 482, 484, 485 and 486 on cross examination and transcript Volume 3, pages 924 and 925 on rebuttal.

(2) Deputy Sheriff Edward J. Prejean, of St. Charles Parish, Louisiana, Transcript Volume 2, pages 515 through 519 on direct examination, pages 520 through 523 on cross examination, page 545 on redirect examination, and Volume 3 pages 920 and 921 on rebuttal.

(3) St. Niles L. Mack, of the Louisiana State Police, Transcript Volume 2, pages 549 through 556 on direct examination, pages 556 through 562 on cross examination and Volume 3, pages 925 and 926 on rebuttal.

(4) Lloyd Evans, Deputy Sheriff for the Parish of Orleans, Transcript Volume 2, pages 571

through 574 on direct examination and pages 576-577-582-585 on cross examination.

(5) Capt. James Merideth, Warden, Parish Prison, New Orleans, Louisiana, Transcript Volume 2, pages 497 through 504 and pages 511 and 825 and 826 on direct examination, pages 504-505-506-509-510-822 on cross examination and pages 507-508.

All of the above witnesses were present when the second confession of July 18, 1946 was made by Wilson, Capt. Meredith being the only one who was not present during the entire time during which said confession was given. All of these witnesses testified definitely that at the time that Wilson made this confession and prior to the time that he signed the same that Wilson was neither placed under the influence of fear, duress, intimidation, menace, threats, inducements or promises of any kind and that the confession as given by Wilson was a free and voluntary confession.

Counsel for the accused is attempting to show that Wilson was placed in fear at the time of giving his confession on July 18, 1946 by being placed in the execution room of the Parish prison for the taking of the confession. However, Capt. Meredith testifies that the reason for the use of that room was due to the fact that Wilson, when he was brought to the Parish Prison on the morning of July 16, 1946, was placed on the Fifth floor about 9:00 o'clock A. M. and that when Lt. Moore and the Deputies came to the Parish Prison

on July 18, 1946 at one o'clock P. M. to see Wilson, that he selected the execution room personally himself; that no request was made for any particular room by Lt. Moore or anyone else; that the selection of this particular room was made by him for convenience only, because it was only about fifteen (15') feet from Wilson's cell and that they just moved a table out of the hall into the room for convenience.

All of the witnesses also testified that unless particular attention was payed to the room that one would never recognize it as an execution room; that the trap door is flush with the floor and that the entire floor is painted green.

ANSWER TO BILL OF EXCEPTION No. TEN (10).

Bill of exception No. Ten is set forth on pages 106, 107, 108, 109 of Volume One (1) of the Transcript. The first paragraph of this bill reads as follows:

> "Be it remembered, That on the trial of this cause, the jury having been withdrawn, the Court ruled that the purported confession of July 18, 1946 was admissible in evidence. The jury was brought back into Court, and the District Attorney now proceeded, in the presence of the jury, to show how the said purported confession was obtained; and after hearing only the State witnesses in the presence of the Jury but not the defense witnesses, the Court ruled, over the objection of counsel for the accused, that the purported confession was admissible and could be read to

> the Jury, denying to the accused his Constitutional right of placing his witnesses on the stand, in the presence of the jury, to prove how the purported confession was obtained, which right had been accorded to the State."

It is to be noted that counsel for the accused even in his bill of exceptions states that this confession of July 18, 1946 had been admitted by the Court in evidence after hearing all of the state witnesses on direct examination and on cross examination, and after hearing one witness on behalf of the defendant outside the presence of the jury. Counsel is complaining in this exception that he was denied his Constitutional right of placing his witnesses on the stand to testify when in truth and in fact he failed to place his client or other witnesses, except one, on the witness stand to testify at the time that the state was laying the foundation for the admissibility in evidence of this confession. In fact counsel for the accused did, during the trial place his client on the stand for the purpose of rebutting the testimony of the state witnesses that the confession was free and voluntarily given. However, this was done when the defendant was placed on the stand to testify in the trial of the case in his own behalf and the only effect such testimony by the defendant could have been was to effect the verdict of the jury and not on the admissibility of the confession in evidence.

Under the circumstances we submit that there is no merit to this bill of exception.

THE LAW

The admissibility of a confession is determined by the trial judge and not the jury. The effect of the confession is to be determined by the jury after it has been held by the trial judge to be admissible.

State vs. Thomas, 208 La. 548, 23 So. (2d) 212
State vs. Robinson, 215 La. 794, 41 So. (2d) 848

CONCLUSION

In conclusion, and strictly from the evidence contained in the record, we find in sequence the following facts:

First, at about 2:00 o'clock of the morning of June 16, 1946, we have the defendant Wilson, breaking into the home of a colored woman by the name of Alice Johnson and there attacking with a heavy stick this woman and her sister, striking the sister over the head, and then proceeding to the bedroom where Alice Johnson was in bed and attempting to strike her over the head, but striking her across the arm instead as she raised her arm to ward off the blow, breaking her arm.

We then have Wilson rushing out of this house after his attacks on these two women. This home of Alice Johnson was in the immediate vicinity of the home of the murdered Petrolia woman. Two or three

hours later Mr. and Mrs. Petrolia were murdered while asleep in their bed at home, both by being struck over the head by a heavy blunt instrument. The murders were discovered about 7:00 o'clock that same morning. Among others, Wilson was questioned, but not detained. That same evening, Wilson left his home and went to Hammond, Louisiana, some fifty miles distant. The reason he gives for leaving is that he had received a letter a day or two before from the mother-in-law of his common law wife in Hammond, telling him she had secured a job for him there. He definitely lied in making this statement as this woman, in testifying as *his* witness, definitely denied that she had written him such a letter. The testimony of this witness conclusively shows that Wilson was lying in practically everything he said in connection with his stay in Hammond. At the time that Wilson fled from St. Charles Parish to Hammond he had a job with the Cities Service Company, and when he fled he left a check for $16.00 which he had coming to him for services rendered the previous week. He testified that he didn't have anything coming to him for wages when he left. However, the company's representative testified that he had $16.00 due him.

We next have him arrested on July 16, 1946 in Hammond on a warrant charging him with aggravated battery upon the colored woman, Alice Johnson and her sister on June 16, 1946, in St. Charles Parish. He

was arrested by Deputy Sheriff Guidry of St. Charles Parish and two police officials of Hammond. He testified that while he was under arrest in Hammond, he was beaten badly. Deputy Sheriff Guidry and the Hammond Police Officers all testified that he was not mistreated in any manner, although Mr. Guidry truthfully stated that while he was on the telephone talking to Sheriff Vial of St. Charles Parish, he noticed someone, not an officer, slap Wilson and that he immediately called him down for it and the fellow left. While in Hammond, Wilson was given a cold drink, and offered something to eat, which he refused. On the trip back from Hammond, a couple of stops were made and Wilson again turned down offers of coffee and food.

We then have Wilson at the Huey P. Long Bridge in Jefferson Parish, which is on the route from Hammond to the Parish Prison in New Orleans. The State Police headquarters, at the time was located at the Bridge. While here, Wilson was questioned about the murder of Mr. and Mrs. Petrolia. After being questioned at length, he confessed and some time was spent by one of the Deputy Sheriffs in taking his confession on a typewriter. At about 5:00 o'clock A. M. of the same morning, July 16, 1946, his confession was completed and he was taken to the Parish Prison in New Orleans. Wilson complains that he was threatened and beaten before he made this confession. The state offered

the evidence of three witnesses in this connection, all of whom testified definitely that no threats or violence was used on Wilson and that he gave his confession freely and voluntarily. Wilson claims that he was severely beaten in Hammond and at the bridge by being struck over the head, across the back and in the stomach, all on the same night. The state also placed on the stand, Capt. James Merideth, Warden of the Parish Prison in New Orleans, who testified that he saw Wilson about 9:00 o'clock on the morning of July 16, 1946, the same day he was brought to the Parish Prison, and that he had a good opportunity to observe his physical condition and that he bore no marks of violence of any kind nor did he at any time during his incarceration in Parish Prison make any statement or complaint of ever having been beaten. Wilson also testified that he had taken sulphur drugs and other medicines while in the Parish Prison in New Orleans. Captain Merideth testified that the drug department had no record of Wilson ever having been treated with sulphur drug or any other medicine while in Parish Prison.

Next, we have Wilson's second confession of July 18, 1946, which is the one offered by the state in evidence in this trial. Wilson complains that he was forced to give this confession by threats. The state, in this connection, offered in evidence the testimony of five witnesses, all of whom testified that no one ever threat-

ened Wilson to induce his confessions, but that it was given freely and voluntarily by him. He complains that he was threatened into giving his confession by being taken to the execution room of the Parish Prison and placed over a trap door, where the confession was given. The evidence shows that not one of the officers who obtained the confession had anything to do with the choice of the place that the confession was made; that they didn't even know that it was an execution room; Captain Merideth testified that he personally picked the room, but that he only did so because of its convenience, as it was empty and only fifteen feet from Wilson's cell; when the confession was being taken Wilson and the three state officers all sat around the same table.

It is, therefore, respectfully submitted that the record, and the evidence submitted on the trial of this case show conclusively that the confession of the defendant, Wilson, offered by the state was legally admitted in evidence; that the defendant was afforded every opportunity to question its admissibility and failed; that both of the confessions were freely and voluntarily given and that no force or promise was used to secure them; that the petitioner was not denied any of his constitutional or statutory rights in the trial of his case, or due process of law, under the constitution of the United States and of the state of Louisiana;

that the writ of certiorari heretofore granted should be recalled and set aside; and the conviction and sentence of petitioner and the judgment of the trial court and the Supreme Court of the State of Louisiana should be affirmed.

Respectfully submitted,

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Attorney General;

MICHAEL E. CULLIGAN,
Assistant Attorney General;

MELVIN P. BARRE,
District Attorney;

D. ELMORE BECNEL,
Assistant District Attorney;

FRANK H. LANGRIDGE,
Counsel for the State of Louisiana.

judgment is affirmed. Dissenting: MR. JUSTICE BLACK, MR. JUSTICE FRANKFURTER, and MR. JUSTICE DOUGLAS. *Lubin F. Laurent* argued the cause for petitioner. With him on the brief was *Henry P. Viering*. *Michael E. Culligan*, Assistant Attorney General of Louisiana, and *Frank H. Langridge* argued the cause for respondent. With them on the brief was *Bolivar E. Kemp, Jr.*, Attorney General. Reported below: 217 La. 470, 46 So. 2d 738.

Miscellaneous Orders.

No. 376. WILSON *v.* LOUISIANA. Certiorari, 340 U. S. 864, to the Supreme Court of Louisiana. Argued March 6–7, 1951. Decided April 9, 1951. *Per Curiam:* The